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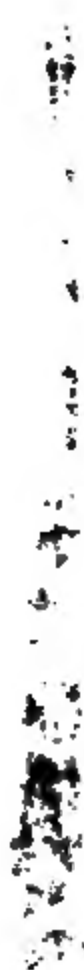
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A COMPLEAT
COLLECTION
Of All the
PROTESTS

Made in the
HOUSE of LORDS,
From 1641 to the Dissolution of the last
Parliament, *June 1747.*

Wherein is contain'd,

The Sentiments of the Independent Gentle-
men of that House, in many important
Matters, of the utmost Consequence to
the Constitution, and Liberties of GREAT
BRITAIN.

L O N D O N:

Printed for the Information of the PEOPLE, and
sold by G. SMITH, near *Temple-Bar.*

MDCCXLVII.



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THE

A. D. 1641.



PROTESTS, &c.



Die Jovis 9 Septembris, 1641.



AFTER the Debate about the printing and publishing of the Order of the 16th of *January* last, *viz.* (That the Divine Service be performed as it is appointed by the Acts of Parliament of this Realm, and that all such as shall disturb that wholesome Order shall be severely punished according to Law: And that all Parsons, Vicars and Curates in their severall Parishes shall forbear to introduce any Rites or Ceremonies otherwise than those which are established by the Laws of this Land.) It being put to the Question, whether the Lords would order that it should be voted, that the said Order of the 16th of *January* should be printed and published before a Conference desired with *the House of Commons* about it; we whose Names are underwritten did dissent, and having before the putting of the Question demanded our Right of Protestation did accordingly make our Protestation: That we held it fit and necessary to have the Consent of *the House of Commons*, in those Things which concern so nearly the Quiet and Government of the Church: And therefore we desired to have a Conference with *the House of Commons* before any conclusive Order were

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printed

printed or published herein, especially *the House of Commons* having but lately brought to us, and desired the Consent of our House unto certain Votes of theirs against Innovations in or about the Worship of God lately practised in this Kingdom, without Warrant of Law; and therefore to acquit ourselves of the Danger and Inconveniencies that might arise by the printing and publishing of the said Order of the 16th of *January*, a binding to the whole Kingdom, without desiring the Consent of *the House of Commons*; we do protest our Disassents to this Vote, and do thus enter it as afore said.

Co. Bedford, Co. Clare, D. Wharton,
Co. Warwick, Co. Newport, D. Kymbolton.

Die Veneris 24^o Decembris, 1641.

It was moved, that the House might be adjourned, and the Debate, upon Report of a Conference held with the Commons, touching the Safety of the King and Kingdom, to be taken into Consideration on *Monday* next; but it was desired, that this Business might be debated now.

There being several Opinions, the Question was put whether the Debate upon this Report shall be put off 'till *Monday* next, or not?

And it was resolved by the major Part to be put off 'till *Monday* next.

These Lords following did disassent to this Vote, and before the putting of the Question did claim their Right to enter their Protestation against it, *viz.*

In Respect the Conference brought up and reported from the *House of Commons* doth, as is thereby declared concern the instant Good and Safety of the King and Kingdoms, I do protest against the deferring the Debate thereof until *Monday*, to the end to discharge myself of any ill Consequence that may happen thereby.

Similar { Lord Admiral,
Lord Chamberlain,
Co. Pembroke,
Co. Bedford,
Co. Warwick,
Co. Bolingbroke,

Similar { Co. Clare,
Co. Stamford,
D. Wharton,
D. St. John's,
D. Spencer,
D. North,

Co. Newport

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|---------|---|------------------------|---------|---|----------------------|
| Steuers | { | Co. Newport, | Steuers | { | D. Kymbolton, |
| | | L. Vis. Say and Seale, | | | D. Brooks, |
| | | Co. Suffolke, | | | D. Grey de Warks, |
| | | Co. Carlisle, | | | D. Roberts, |
| | | Co. Holland, | | | D. Howard de Efrick. |

Die Luna 24^o Januarii, 1641.

The House commanded the Message, which is to be sent to the King by way of Thanks for his gracious Message sent to both Houses, to be read; and after that, the Addition brought up from *the House of Commons*, which the Committee at *Grocer's-Hall* have voted to be annexed to the Thanks.

Whereas the Houses of Parliament have received from your Majesty a Message expressing much Grace and Favour to all your Majesty's Subjects, they have thought fit to return to your Majesty most humble Thanks for the same, and to let your Majesty know they will take it into such speedy and serious Consideration, as a Proposition of that great Importance doth require.

The Addition offered by *the House of Commons* to be annexed.

And to the further Intent that they may be enabled with Security to discharge their Duties herein, they humbly beseech your sacred Majesty to raise up to them a sure Ground of Safety and Confidence, by putting the Tower and other principal Forts of this Kingdom, and the whole Militia thereof, into the Hands of such Persons as your Parliament may confide in, and as shall be recommended unto your Majesty by both Houses of Parliament; that all Fears and Jealousies being laid aside, they may with all Chearfulness proceed to such Resolutions as they hope will lay a sure Foundation of Honour, Greatness and Glory to your Majesty and your Royal Posterity, and of Happiness and Prosperity unto your Subjects throughout all your Dominions.

And after long Debate it was put to the Question, and it was resolved by the major Part, that this House doth not confirm nor approve of the Vote of the Committee concerning the Addition brought from *the House of Commons* to the Thanks to be given to the King.

These Lords following, before the putting of the Question, desired their Right of Protestation, if they were out-voted; which the House granted, and accordingly entered their Protestation.

Whereas the Desire brought from *the House of Commons*, concerning the Forts and Militia of the Kingdom, concerneth much the Safety of the Kingdom, the Service of the King, the general Peace and Quiet of this Land, and is (as I conceive) absolutely necessary to the setting of the present Distempers, and tendeth to the Furtherance of Trade, now much obstructed and decayed, as hath been represented by several Petitions from the City of *London*, and sundry other Countries; I protest against the Vote of rejecting of that Desire of the Commons, and do testify my Dissent, to discharge myself from all the Mischiefs and ill Consequences that may thereupon follow.

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|-----------|---|----------------------------------|---|---------------------------|
| Similiter | { | Lord Chamberlain, | { | Co. <i>Sarum</i> , |
| | | Co. <i>Warwick</i> , | | Co. <i>Peterborough</i> , |
| | | Co. <i>Pembroke</i> , | | Co. <i>Bolingbroke</i> , |
| | | Co. <i>Holland</i> , | | Co. <i>Thanet</i> , |
| | | Co. <i>Stamford</i> , | | Co. <i>Nottingham</i> , |
| | | L. Visc. <i>Say and Seale</i> , | | L. Visc. <i>Cornway</i> , |
| | | Co. <i>Bedford</i> , | | D. <i>Paget</i> , |
| | | Co. <i>Leicester</i> , | | D. <i>Kymbolton</i> , |
| | | Co. <i>Clare</i> , | | D. <i>Brooke</i> , |
| | | Co. <i>Lincoln</i> , | | D. <i>Roberts</i> , |
| | | D. <i>North</i> , | | D. <i>Bruce</i> , |
| | | D. <i>Wharton</i> , | | D. <i>Dacres</i> , (rick, |
| | | D. <i>St. John's</i> , | | D. <i>Howard de Es-</i> |
| | | D. <i>Spencer</i> , | | D. <i>Grey de Warke</i> , |
| | | D. <i>Newnham</i> , | | D. <i>Shandos</i> , |
| | | D. <i>Willoughby de Parham</i> , | | D. <i>Hunsdon</i> . |

Die Mercurii 26^o Januarii, 1641.

The House conceiving that certain Words, spoken by the Duke of *Richmond*, did reflect to the Prejudice of the King and Kingdom;

After long Debate it was put to the Question, whether it shall be sufficient Satisfaction to this House *that the Lord Duke of Richmond shall come into his Place and make an humble Submission and Acknowledgment*

knowledgment that he hath offended the House in speaking these Words inconsiderately and unadvisedly, and that he had no Intent or Meaning to have the House adjourned for six Months, and that he craves their Lordships Pardon for it ?

And it was resolved Affirmatively.

These Lords following dissented from the aforesaid Vote, and before the putting of the Question demanded their Right of Protestation, which the House granted, and they have accordingly entered their Protestations as follows.

That in respect the Words spoken by the Duke of Richmond, which were these (*Let us put the Question, whether we shall adjourn for six Months*) tended much to the Prejudice of the King and Kingdom, I do protest against the Vote, as not a sufficient Punishment for Words of that dangerous Consequence.

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|---------|---|---------------------|---|----------------------|
| Similar | { | The Lord Admiral, | { | Co. Warwick, |
| | | The Ld. Chamberlain | | Co. Holland, |
| | | Co. Pembroke, | | Co. Bolingbroke, |
| | | Co. Suffolke, | | Co. Stamford, |
| | | Co. Lincoln, | | Lord Vis. Cornway, |
| | | Co. Leiceſter, | | D. Wharton, |
| | | D. Paget, | | D. Kymbolton, |
| | | D. Hunſdon, | | D. Brooke, |
| | | D. Shandos, | | D. Grey de Warks, |
| | | D. St. John's, | | D. Roberts, |
| | | D. Spencer, | | D. Howard de Eſrick. |

Die Martis 15^o Martii, 1641.

The House of Commons having sent up the following Vote, viz. That in this Case of extreme Danger, and of his Majesty's Refusal, the Ordinance agreed on by both Houses for the Militia doth oblige the People, and ought to be obey'd by the fundamental Laws of this Kingdom.

Resolved (upon the Question) that this House agrees with the House of Commons in this Vote.

These Lords following dissented to this Vote, having demanded their Right of Protestation and Dissent before the Question was put, which accordingly the House granted, and have done it in *hæc Verba*, viz.

Whereas before the putting of this Question, *viz.* That in this Case of extreme Danger, and of his Majesty's Refusal, the Ordinance agreed upon by both Houses for the Militia doth oblige the People, and ought to be obey'd by the fundamental Laws of this Kingdom, (there was a Question first put, whether the Judges should be heard in Point of Law contained in this Question) which Question of hearing the Judges was carried Negatively; we whose Names are underwritten do enter this our Protestation and Dissent from that Question, *viz.* That in this Case of extreme Danger and of his Majesty's Refusal, the Ordinance agreed upon by both Houses for the Militia doth oblige the People, and ought to be obey'd by the fundamental Laws of this Kingdom.

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|-----------|---|------------------|-----------|---|--------------|
| Similiter | { | Comes Bathon, | Similiter | { | D. Dunsmore, |
| | | Co. Southampton, | | | D. Lovelace, |
| | | Co. Cleveland, | | | D. Capell. |

Die Jovis 13^o Decembris, 1660.

Hodie 3^a vice lecta est Billa, An Act to vacate certain Fines unduely procured to be levied by Sir Edward Powell, Knt. and Bart. and Dame Mary his Wife.

The Question being put, whether this Bill shall pass for a Law?

It was resolved in the Affirmative.

Whereas before the Question was put for passing the said Bill, Leave was desired for entring Protestations in the Behalf of the Lords hereunder written, in case the Vote upon the said Act should be carried in the Affirmative, we, in Pursuance thereof, do enter our Protests against the said Act following:

That Fines are the Foundations of the Assurances of the Realm, upon which so many Titles do depend, and therefore ought not to be shaken; nor hath there any Precedent occur'd to us, wherein any Fines have been vacated by Judgment or Act of Parliament, or otherwise, without Consent of the Parties; the Eye of the Law looking upon Fines as Things always transacted with Consent and with that Reverence, that no Averment whatsoever shall be good against them when they are perfected; and farther, we conceive, that by a future Law to vacate Assurances, which are good by the
standing

standing Law, is unreasonable and of a dangerous Consequence, especially in this Case, where *Skinner* and *Chute*, Purchasers of a considerable Part of the Lands compris'd in the said Fines, have petitioned, and yet have not been heard upon the Merits of their Case, which is contrary, as we conceive, to the Statute of 28 *Edw. III. chap. 3.* which saith, No Man shall be put out of his Land or Tenement, nor disinherited, without being brought to answer by due Process of Law.

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| <i>Edw. Hyde, C.</i> | <i>Ch. Richmond</i> | <i>W. Grey,</i> |
| <i>F. Montague,</i> | <i>and Lrnes,</i> | <i>Albemarle,</i> |
| <i>W. Say and Seale,</i> | <i>Manchester,</i> | <i>Berkshire,</i> |
| <i>T. Calpeper,</i> | <i>Tho. Coventry,</i> | <i>A. Capell,</i> |
| <i>F. Willoughby,</i> | <i>W. Roberts,</i> | <i>Ro. Lexington,</i> |
| <i>Portland,</i> | <i>Brecknock,</i> | <i>Suffolke,</i> |
| <i>Sarcey,</i> | <i>Norwich,</i> | <i>Stafford,</i> |
| <i>Will. Petre,</i> | <i>Brudenell,</i> | <i>Fr. Dacre,</i> |
| <i>Chr. Hatton,</i> | <i>L. Howard,</i> | <i>P. Wharton.</i> |

Die Mercurii 17^o Julii, 1661.

Habe 3^a vice lastast Billa, An Act for making void divers Fines unduely procured to be levied by *Sir Edward Powell, Knt. and Bart.* and *Dame Mary* his Wife.

The Question being put, whether this Bill with the Proviso shall pass for a Law?

It was resolved in the Affirmative.

Whereas before the Question was put for passing the said Bill, Leave was desired for entering Protestations of divers Lords, in case the Vote should be carried for passing the said Bill; we whose Names are underwritten do protest against the said Bill for these Reasons following:

1st, That Fines are the Foundations upon which most Titles of this Realm do depend, and therefore ought not to be shaken, for the great Inconvenience that is likely to follow thereupon.

2^{dly}, Such Proceeding is contrary to the Statute of 25 *Edw. I.* now in Force, which saith, Forasmuch as Fines levied in our Court ought and do make an End of all Matters; and therefore principally are called Fines.

3^{dly}, And to another Statute made in the fifth Year of *King Edward III.* where it is enacted, That no Man

shall be forejudged of Lands or Tenements, Goods or Chattels, contrary to the Term of the Great Charter.

4thly, And to another Statute made in the 28th of *Edw. III.* where it is enacted, that no Man, of what Estate or Condition that he be, shall be put out of Land or Tenement, nor disherited, without being brought in to answer by due Process of Law.

5thly, This Proceeding by Bill, as we conceive, is contrary to a Statute made in the fourth Year of King *Hen. IV.* wherein it is declared, that in Pleas real and personal, after Judgment given in the Courts of our Lord the King, the Parties be made to come in upon grievous Pains, sometimes before the King himself, sometimes before the King's Council, and sometimes to the Parliament, to answer thereof anew, to the great impoverishing of the Parties, and in the Subversion of the Common Law; it is ordained, that after Judgment given in the Courts of our Lord the King, the Parties and their Heirs shall be thereof in Peace until the Judgment be undone by Attaint or by Error, if there be Errors, as hath been used by the Laws in the Times of the King's Progenitors.

6thly, The Proceedings upon this Bill have been, as we conceive, directly against the Statutes aforesaid, by calling Persons to answer of Judgments anew, given in the *Common Pleas*, and vacating the same without either Attaint or Error, and calling Persons to answer without the due and ancient Process of Law, and forejudging the Tenants of the Lands in question, without ever hearing of them.

7thly, For that there hath not occurred to us one Precedent wherein any Fine hath been vacated by Act of Parliament without Consent of Parties, the Law looking upon Fines as always transacted by Consent, and with that Reverence, that neither Lunacy, Ideotism, nor any other Averment whatsoever shall be admitted against Fines when perfected.

8thly, We conceive, to vacate Assurances by a future Law, good by the present Law, is unreasonable and of dangerous Consequence, both in respect of what such a Precedent may produce upon the like Pretences, as also rendering Mens Minds so doubtful, that not only the

Rude

Rude and Ignorant, but the Learned, may be at a Loss how to make or receive a good Title.

9^{thly}, For that it is aver'd in the said Bill, that all the Lady *Powell's* Servants were removed; whereas it appeared by Depositions in Chancery, that *Antonia Cbrisiana*, one who had lived with the Lady *Powell* many Years, was not removed.

10^{thly}, That Dr. *Goddard* a Physician and *Foucaut* an Apothecary, examined in the said Cause, did testify they saw no Fear in, or Force upon the Lady *Powell*; and had there been any, we conceive it impossible for a Woman to hide the Passion of Fear from a Physician, which is not easily dissembled from a vulgar Eye; and *Foucaut* the Apothecary deposed, that he was twice a Day with the said Lady *Powell* for one Month together immediately preceeding her Death.

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| <i>W. Roberts,</i> | <i>Brecknock,</i> | <i>Portland,</i> |
| <i>Campden,</i> | <i>Will. Petre,</i> | <i>Albemarle,</i> |
| <i>Stafford,</i> | <i>Montague,</i> | <i>Chr. Hatton.</i> |
| <i>T. Willoughby,</i> | | |

Die Martis 17^o Decembris, 1661.

The House entring into Consideration of the Amendments to the Bill concerning Corporations.

And the Question being put, whether to agree to the said Amendments?

It was resolved in the Affirmative.

Memorandum, That before the putting the aforesaid Question, some Lords desired Leave to enter their Protestation, if the aforesaid Question was carried in the Affirmative; and accordingly the Earl of *Bolingbroke* entered his Protestation upon these Reasons:

1st, That the Amendments to the Bill touching Corporations, he conceives, are against the Privileges granted by the Great Charter in the 9th and 29th Chart. by many several Acts confirm'd.

2^{dly}, That the Power herein granted is against judicial Trials, which proceed by Oath. *Bolingbroke.*

Die Jovis 6^o Februarii, 1661.

Hodie 3^a vice lecta est Billa, An Act for the restoring
B 5 of

of *Charles* Earl of *Derby* to the Manors of *Hope* and *Hopedale* and *Molesdale* in the County of *Flint*.

The Question being put, whether this Bill shall pass?

It was resolved in the Affirmative.

Whereas before the Question was put for passing the said Bill, Leave was desired for entering a Protest on the Behalf of the Lords hereunder written, in case the Vote upon the said Bill pass in the Affirmative; we in Pursuance thereof, according to the Course of Parliament in such like Cases used, do enter our Protestation against the said Bill for these Reasons following :

That it appears to us, these two Manors were sold by the Earl of *Derby*, and in Pursuance of Contracts desired and made by himself; that the Purchasers are now in Possession thereof, by good Assurances in Law, as Deeds inrolled, Feoffments, Fines, Recoveries passed from the Earl and his Lady; that, we conceive, by a future Law to destroy Assurances, which are good by the standing Law, is of dangerous Consequence, and, in this Case unreasonable, where the Contracts and Conveyances have appeared voluntary and desired on the Earl's Part, in whom there was no Disability to grant or convey, and the Proceedings on the Part of the Purchasers to have been without Colour either of Error or Crime; that we think it not reasonable by a new Law to create an Equity of Redemption after a Purchase fairly transacted and perfected, nor to require any Account from the Purchasers, when from the Nature of the Purchase we cannot reasonably expect it; and particularly, we think it beyond all Pretence of Justice, that they should be required to account for the Sum of nine thousand Pounds, which they received for the Redemption of *Harwardine*, without any Allowance made to them for the Purchase thereof, which they made by Direction of the Earl of *Derby*, and for his Use, and were only reimbursed in this Sum of nine thousand Pounds, according to their Articles, when the said Earl sold this Manor to Serjeant *Glynne*; and the Business of *Harwardine* is altogether foreign, both to the Title and Substance of the Bill, and concerning which there hath not been any thing heard at the Bar or otherwise.

Besides, we cannot look upon this but as a Breach of the Act of Judicial Proceedings, when by a new Law we
take

take away the Force of those Fines and Recoveries which by that Act were made good, and no less than a Trenching on the Act of Indemnity and Oblivion, when an Estate so fairly derived must be look'd upon as destroy'd, only in Favour of the Earl of *Derby*, when no Argument from the Demerits of the Purchase could perswade it; and that this is of such a Consequence, as the same Favour can never be denied to any one hereafter that shall ask it; which, of Necessity, will infer a general Violation of that Act: This Bill tendeth to vacate the great Assurances of the Realm before-mentioned, which may be of so dangerous Consequence, as to render buying and selling of Land insecure, uncertain and doubtful: It brings Titles into Examination in Parliament, after Judgments given, as those of Fines, contrary to the Statute of 4 *Hen. IV. ch. 22.* It doth not restore the Consideration given for the Purchase; it creates Suits and Contentions between the Parties, who have not, nor can have any about the said Lands without this Act; whereas the Authority of Parliament ought to be of last Resort, and to mend and end the Work of other Courts, but not to make Work for them; it seems to pass too soon, the Cause appearing in the Body of it, not to be ripe for Determination; and it is without Precedent, for Part of a Cause to be judged in one Court, and the rest of it in another; besides the Bill mentioneth some Practices of the Purchasers, which we conceive not proved.

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| <i>Clarendon, C.</i> | <i>Brecknock, S.</i> | <i>Bristol,</i> |
| <i>Manchester,</i> | <i>W. Roberts,</i> | <i>J. Northumberland,</i> |
| <i>C. Warwick,</i> | <i>Portland,</i> | <i>P. Wharton,</i> |
| <i>W. Grey,</i> | <i>W. Paget,</i> | <i>Fauconberg,</i> |
| <i>Carlisle,</i> | <i>Bedford,</i> | <i>F. Arundell,</i> |
| <i>Essex,</i> | <i>Stafford,</i> | <i>Exeter,</i> |
| <i>Anglesey,</i> | <i>J. Bridgewater,</i> | <i>Chesterfield,</i> |
| <i>Windsor,</i> | <i>J. Burgevenny,</i> | <i>Scarsdale.</i> |
| <i>Suffolk,</i> | | |

Die Sabbati 8^o Februarii, 1661.

Hodie 3^a vice lecta est Billa, An Act for disuniting the Hundreds of Dudston and King's-Barton from the County of the City of Gloucester, and restoring them to be Part of the City of Gloucester.

The

The Question being put, whether this Bill with the Amendments now read shall pass ?

It was resolved in the Affirmative.

Before the putting of the aforesaid Question, the Earl of *Bolingbroke* desired Leave of the House to enter his Dissent, if the Question was carried in the Affirmative ; which being granted, his Lordship dissented as followeth.

I dissent, conceiving it usual to confirm, not ordinary, but dangerous to vacate Grants made under the Great Seal, being the Great Assurances from the Crown.
Bolingbroke.

Die Lunæ 5^o Maii, 1662.

The Earl of *Bolingbroke* reported from the Committee the Bill for distributing threescore thousand Pounds amongst the Indigent and Loyal Commissionated Officers, with certain Alterations and Amendments, which are offer'd to the Consideration of the House ; the said Amendments were read twice, and then a Proviso was offered to the House for reserving the King's Right touching the disposing of the said threescore thousand Pounds, which was read.

And after a long Debate the Question being put, whether this Proviso, that hath been offered, shall be added to the Bill ?

It was resolved in the Negative.

Memorandum, That the Earl of *Bolingbroke* desired Leave of the House to enter his Dissent, if the aforesaid Question was carried in the Negative ; and enter'd his Dissent as follows :

Of these Reasons, that I conceive the sole and supreme Power of disposing of Monies is in the King, and that no Aid ought to be disposed but by his sole Warrant and Commission, and consequently that no Person or Persons may any ways join therein without prejudicing his Majesty's Prerogative ; and hereon only I desire the admitting the Proviso.
Bolingbroke.

Die Lunæ 19^o Maii, 1662.

The Lord *Asbley* reported the Effect of the free Conference with the House of Commons concerning the Alterations

rations in the Bill for mending the common Highways ; that *the House of Commons* do not agree to their Lordships Amendment in the fourth Skin, forty-first and forty-second Lines, concerning Horses to go a-breast.

And in the fifth Skin, sixth Line, concerning the Penalty of forty Shillings for each Horse forfeited, the Commons do adhere as it stands in the Bill.

And as to their Lordships first and second Proviso's concerning the Altering of those Bridges mentioned therein, *the House of Commons* do not agree to them ; and they were commanded to insist upon it, that their Lordships had no Right to offer such Proviso's, because they concern assessing of the Commons.

As to these Precedents, which their Lordships urged at the Conference, as that for repairing *Dover-Pier*, and the Bill for rating Persons to the Poor, and the Bill (in 4 & 5 *Philip and Mary*) for Assessment of Horse and Arms, all which began in the House of Peers ; the Commons said, they are but single Precedents, and do not weigh with them.

The Lords conceiving this Business to be a Matter of great Concernment to the Privilege of the House of Peers, fell into Debate concerning the leaving out these two Proviso's touching the altering of the two Bridges at the Charge therein mentioned ; and the Question being proposed, whether this House do agree with *the House of Commons* in this Business, asserting their Privileges at a Conference ?

The Question being put, whether this Question shall be now put ?

It was resolved in the Affirmative.

Then the Question being put, whether this House do agree with *the House of Commons* in leaving out the two Privileges, asserting their Privileges at a Conference ?

It was resolved in the Affirmative.

This House adheres to their Amendment for two Horses to go a-breast, and do agree with *the House of Commons* for the Penalty to be forty Shillings.

Whereas a Bill, entitled, *An Act for enlarging and amending the common Highways*, came from the House of Commons, unto which the Lords added two several Proviso's,

viso's, laying a Charge for the Repair of two Bridges which Provviso's were rejected by the House of Commons upon this Ground, given to the Lords at several Conferences by some Members of the House of Commons, v
That the Lords have no Power to begin any Bill, add any Clause to any Bill, that in any kind charge Money either for repairing or paving of Highways mending of Bridges, or other publick Use; which conceived to be against the Privilege of this House, many Precedents, as a Statute made in 4 & 5 Ph and Mary, for assessing all Persons therein mentioned Horse, Arms, and Foot-Arms; and another Act in Time of Queen Elizabeth, for Repair of Dover-Port and one other Act in the fifth Year of the said Queen for Relief of the Poor; and other Acts: All which began in the House of Peers, and were assented to by Commons, and by the Royal Assent passed into by Law. And whereas the House of Peers did, after the said Conference, pass this Vote in the Affirmative, viz. agree with the House of Commons in leaving out two Provviso's, asserting their Privileges at a Conference; and whereas, before the putting the said Vote we whose Names are hereunto subscribed, desiring liberty of our Dissent unto the said Vote, we do, the Reasons aforesaid, and to assert so much as involve so important and ancient a Privilege of the House of Peers, enter our Dissent and Protestation against this V

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| Roberts, | Bolingbrook, | T. Culpeper, |
| Hen. Chichester, | Stafford, | R. Byron, |
| Essex, | Derby, | Anglesey, |
| E. Howard, | Lawarr, | C. Warwick. |
| W. Maynard, | Awdley, | |

Die Veneris 24^o Julii, 1663.

A Bill, entitled, *An Act for the Encouragement of Trade*, being this Day read the third time, and ready to be put to the Question for passing into a Law, it was moved, and granted by the House, that if the Question passed in the Affirmative, such Peers as were against the Bill might enter their Protestation; and accordingly we whose Names are subscribed do protest against the said Bill being made a Law, for the Reasons following:

1st, Because, in the free Liberty given for transporting of Money and Bullion, this Bill crosseth the Wisdom and Care of our Ancestors of all Ages, who by many Laws and Penalties, upon excellent and approved Grounds, have restrained such Exportation, and thereby preserved Trade in a flourishing Condition.

2^{dly}, There appearing already great Want of Money in his Majesty's Dominions, and almost all the Gold of his Majesty's Stamp gone, notwithstanding the Restraint laid by Law, and the Importation of foreign Commodities (which are grown to so great an Esteem and Use amongst us) being much greater than the Export of our native and simple Commodities, it must necessarily follow, by this free Exportation, that our Silver will also be carried away into foreign Parts, and all Trade fail for want of Money, which is the Measure of it.

3^{dly}, It will make all our native Commodities lie upon our Hands, when rather than stay for gross Goods, which pay Custom, the Merchant, in a quarter of an Hour, when his Wind and Tide serves, freights his Ship with Silver.

4^{thly}, It trencheth highly upon the King's Prerogative, he being by the Law the only Exchanger of Money, and his Interest equal to command that as to command the Militia of the Kingdom, which cannot subsist without it; and it is dangerous to the Peace of the Kingdom, when it shall be in the Power of half a Dozen or half a Score rich, discontented or factious Persons, to make a Bank of our Coin and Bullion beyond the Seas for any Mischief, and leave us in want of Money; and it shall not be in the King's Power to prevent it, the Liberty being given by a Law; nor to keep his Mint going, because Money will yield more from than at the Mint.

5^{thly}, Because a Law of so great Change, and threatening so much Danger, is made perpetual, and not probationer.

6^{thly}, Because, in the Restraint laid on Importation of *Irish* Cattle, common Right and the Subjects Liberty is invaded; whilst they, being by Law native *Englishmen*, are debarred the *English* Markets, which seems also to monopolize the Sale of Cattle to some of his Majesty's *English* Subjects, to the Destruction of others.

7^{thly},

7thly, It will, we conceive, increase the King's Charge of *Ireland*, by calling for Revenue from *England*, if that, which is almost the only Trade of *Ireland*, shall be prohibited, as in Effect it is; and so the People, we conceive, disabled to pay the King's Dues, or grant Subsidies in *Ireland*.

8thly, It threatens Danger to the Peace of the Kingdom of *Ireland*, by universal Poverty; which may have an unhappy Influence upon the rest of his Majesty's Dominions.

9thly, The Restraint upon Importation of *Irish* and *Scottish* Cattle will, we conceive, be Decay of two of his Majesty's Cities of *England*, *Carlisle* and *Chester*, make a Dearth in *London*, and discommode many other Parts of *England*. Other Reasons are forborne, which Time will produce. *Anglesey.*

Die Sabbati 25^o Julii, 1663.

The Earl of *Bridgewater* reported from the Committee the Bill for Relief of such Persons as by Sicknes or other Impediment were disabled from subscribing the Declaration in the *Act of Uniformity*, an Explanation of Part of the said Act; wherein the Committee made some Alterations and Amendments, and have added a Clause; which are offered to the Consideration of this House: The Amendments and Alterations were read twice, and agreed to; and then the Clause was read as follows:

And be it enacted and declared by the Authority aforesaid, That the Declaration and Subscription of Assent and Consent, in the said Act mentioned, shall be understood only as to the Practice and Obedience to the said Act, and not otherwise.

And the Question being put, whether to agree with the Committee in this Clause?

It was resolved in the Affirmative.

Memorandum, Before the putting of the aforesaid Question, divers Lords desired Leave to enter their Protestation, if the Question was resolved in the Affirmative; which the House granted, and accordingly this Protestation was made by these Lords following:

In regard, we conceive, that this Clause in the Act, *viz.* (And be it enacted and declared by the Authority aforesaid,

aforesaid, That the Declaration and Subscription of Assent and Consent, in the said Act mentioned, shall be understood only as to the Practice and Obedience of the said Act, and not otherwise) is destructive to the Church of *England* as now established, we therefore have enter'd our Protestation against that Clause.

| | | |
|-----------------------|----------------------|----------------------|
| <i>James,</i> | <i>Dorset,</i> | <i>Mordaunt,</i> |
| <i>Cha. Gerrard,</i> | <i>T. Culpeper,</i> | <i>J. Lucas,</i> |
| <i>J. Bridgewater</i> | <i>Derby,</i> | <i>Peterborough,</i> |
| <i>W. Maynard,</i> | <i>Jo. Berkeley,</i> | <i>Northampton.</i> |
| <i>Berkshire,</i> | <i>Cornwallis,</i> | |

Die Martis 29^o Novembris, 1664.

The Question being put, whether these Words, *As it shall appear to him to be on either Part, notwithstanding there be not any Precedent in the Case*, shall be added to the Order made Yesterday in the Case of *Robert Roberts, Esq;* and his Wife and Son?

It was resolved in the Affirmative.

Against which Vote the Lord following doth protest and dissent (having Liberty of the House so to do before the Question was put) for that he is not satisfied to give Directions how the *Chancery* should adjudge a Cause, the Merits whereof this House never heard at the Bar, and which, he conceives, is not legally before this House; for that the former Transactions and Proceedings which this House made therein, and all Debates, Votes and Resolutions thereupon, are determined with a former Session of Parliament, and so totally shut out of Doors, as if it had never been entertained by this House; and for that the said Vote, seems to enlarge the Bounds of the *Chancery*, which is by this Vote, directed to make a Decree, tho' there hath been no Precedent in the Case, especially where the Will of the Dead may be overthrown, Infants decreed out of a legal Estate, and Provision made by the Testator to pay honest Debts defeated and avoided. *Mobun.*

I being unsatisfied in my Judgment concerning the Vote which passed this Day, for an Order to be directed from this House to the Lord Chancellor in the Case of *Mr. Roberts*, did demand Leave of the House to enter my Dissent, and accordingly do protest against that Vote, for these Reasons following: 1st,

1st, I conceive this may be of dangerous Consequence, if, in this Conjunction of Time, it should occasion any Misunderstanding betwixt the two Houses; Union of both Houses conducing so much to the Safety of the King and Kingdom; for haply they may apprehend, as sometimes they have formerly done, that this House doth extend their Power of Judicature farther than ever hath formerly been; and therefore should think themselves interested, that if any Remedy, in this extraordinary Case, should be applied to Mr. Roberts, who is a Member of their own House, it ought to be by the legislative Power, and not by the judicial.

2^{dly}, Whereas it hath been the Prudence and Care of all former Parliaments to set Limits and Bounds to the Jurisdiction of Chancery, now this Order of Directions (which implies a Command) opens a Gap to set up an arbitrary Power in the Chancery, which is hereby countenanced by the House of Lords, to act not according to the accustomed Rules or former Precedents of that Court, but according to his own Will; *sic volumus, sic jubemus, sicut pro ratione voluntas.* T. Lyncolne.

Die Lune 14^o Januarii, 1666.

The House resumed the further Consideration of the Report of the free Conference with the House of Commons touching the Word *Nasancer* in the Bill against importing of *Irish* Cattle.

And after Debate thereof, the Question being put, whether to agree with the House of Commons?

It was resolved in the Affirmative?

Memorandum, That the Question being ready to be put for agreeing with the House of Commons in the said Bill, and thereon divers of the Peers humbly moving that their Protestation might be enter'd, if the said Question should be carried in the Affirmative (as it was) we whose Names do ensue do accordingly enter our Dissents from the said Resolution, for many Reasons offered in Debates of the House, and at Conferences with the Commons, and particularly for these Reasons following:

1st, Because, as we humbly conceive, the Importation
of

of *Irish* Cattle is no Nuisance; and therefore we could not consent to call it what it is not.

2dly, Because the Word *Nuisance* was professedly designed by *the House of Commons* to restrain and limit a just, necessary and ancient Prerogative inherent in the Crown, for the Good and Safety of his Majesty's People, upon Accidents and Emergencies, which cannot be foreseen upon the making of new Laws.

3dly, Because there appears no Precedent of any Remedy provided against Nuisances, but by perpetual Laws and removing the Nuisances; whereas this Bill is made but probationer, so that after a while the Nuisance (if any) will revive.

Lastly, This most honourable House at a Conference did timely (after several Days Debate) acquaint the Commons, that they resolved not to admit the Word *Nuisance*; and before the last Conference entered the same Day (as follows in the Journal of Parliament) that they had great Reason to insist, and commanded their Managers to declare so much to the Commons, when they let them know they did agree; which was done accordingly.

Cardigan, Burlington, Conway,
Anglesey, J. Bridgewater, Lewarr.
Berkeley, Audley,

Die Mercurii 23^o Januarii, 1666.

Hodie 3a vice lecta est Billa, An Act for erecting of a Judicature for Determination of Differences touching Houses burn'd and demolished by reason of the late Fire w^h happen'd in London.

Question being put, whether this Bill, with the alterations and Amendments now read shall pass?

It was resolved in the Affirmative.

Memorandum, Before the putting of the abovesaid Question, the Earl of *Dover* desired Leave to enter his Protestation, if the Question was carried in the Affirmative; which was granted, and accordingly enter'd his Dissent.

By reason of the unlimited and unbounded Power given to the Judges in this Bill, without any Appeal, I enter my Dissent to this Bill,

Dover.

Written in the Earl's own Hand.

Die

2dly, The Impeachment of Treason against *William Laude*, Archbishop of *Canterbury*, the 18th of *December*, 1640.

3dly, The Impeachment of Treason against the Lord *Finch*, Lord-Keeper, the 22d of *December*, 1640.

4thly, The Impeachment of Treason against Sir *George Radcliffe*, the 29th of *December*, 1640.

And after a long Debate of the first Reason, and the aforesaid Precedents, the second, third, fourth, fifth and sixth Reasons were again read.

And, after a serious Debate thereof, the Question being put, whether upon these Precedents and Reasons of *the House of Commons*, and the whole Debate thereupon, their Lordships are satisfy'd to comply with the Desires of *the House of Commons* for sequestering from this House, and committing the Earl of *Clarendon*, without any particular Treason assigned or specified?

It was resolved in the Negative.

We whose Names are underwritten do, according to the ancient Right and Usage of all the Peers of the Realm assembled in Parliament, after due Leave demanded from the House in the usual Manner and Form, as the Journal-Book doth shew, enter and record our Protestation and particular Dissents as follow, and for these Reasons :

1st, That we are satisfied, in Agreement with so much of the Reasons of *the House of Commons* alledged to that Purpose, as upon a very long and solemn Debate in this House did concur with our Sense, that the Earl of *Clarendon* should be committed to Custody, without assigning of special Matter, until the particular Impeachment shall be exhibited against him by the Commons before the Lords in Parliament ; or else how shall any great Officer of the Crown, and his Accomplices, be prevented from evading to be brought to a fair and speedy Trial ?

2dly, We do conceive, that the four Precedents urged by *the House of Commons* for his Commitment as aforesaid, and to justify the Way of their Proceedings by general Impeachment only, are valid, and full to the Point of this Case ; and that the Precedent of *William de la Pool*, Duke of *Suffolk*, in the 28th of *Hen. VI.* is

no Precedent at all to the contrary, in regard that it was no Judgment nor Appeal in Parliament, but rather an Appeal to the King from the Judicature of the Parliament, whilst the Parliament was sitting, which is not according to the known Privileges and Customs of this House.

3dly, The Earl of Clarendon's Power and Influence in the absolute Management of all the great Affairs of the Realm hath been so notorious ever since his Majesty's happy Return into *England*, until the Great Seal was taken from him, that whilst he is at Liberty few or none of the Witnesses will, probably, dare to declare in Evidence all that they know against him; for Defect whereof the Safety of the King's Person, and the Peace of the whole Kingdom, may be very much endanger'd.

4thly, We conceive, that in Cases of Treason and traitorous Practices, *the House of Commons* have an inherent Right in them to impeach any Peer of the Realm, or other Subject of *England*, without assigning of special Matter, because Treason, either against the King's Person, or the Government established, which are Indivisibles, is such a Speciality in itself alone, that it needs no farther Specification as to the Matter of safe Custody; nor can it be suspected, that so honourable a Body as *the House of Commons* would have accused a Peer of the Realm, of the Earl of Clarendon's Eminency and Condition, without very good Cause.

Buckingham,
Albemarle,
Teynham,
W. St. David's,
T. Lucas,
Cha. Gerrard,
Berkshire,
Poulett,
Howard of
Charlton,

Pembroke and
Montgomery,
Rochester,
Jo. Duresme,
W. Sandys,
Jo. Berkeley,
Northampton,
Kent,
Carlisle,
Dover,

Norwich,
Vaughan,
Hen. Hereford,
Byron,
Batbe,
Bristol,
Arlington,
Saye and Seale,
Powis.

Die Jovis 21° Novembris, 1667.

A Message was sent to *the House of Commons* by Sir William Child and Sir John Cole, to desire a present Conference in the *Painted Chamber* concerning the Matter of the last Conference touching the Earl of Clarendon.

The

The Messengers sent to *the House of Commons* return'd with this Answer : That *the House of Commons* are now in Debate of Matters of great Consequence, and will return an Answer presently by Messengers of their own.

A Message was brought from *the House of Commons* by Sir Robert Howard and others, to desire a Conference upon the last Message.

The Question being put, whether to give *the House of Commons* a present Conference upon the last Message?

It was resolved in the Affirmative.

Memorandum, That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissent, if it were carried in the Affirmative ; which being granted, they do accordingly enter their Dissents, by subscribing their Names to the Reasons following:

1st, Because the Lords having first desired a Conference the Commons did not give it.

2^{dly}, Because there is no Precedent, that they can find, of any such Proceeding in Parliament before this.

3^{aly}, Because *the House of Commons* could not tell what was to be offered at the Conference desired by the Lords.

4^{thly}, Because, for ought they know, the Lords at the Conference intended to agree with their Reasons, or give Reasons against them.

5^{thly}, Because there are no Precedents of free Conferences (nor can they, as we conceive, be) in Points relating to Judicature, which is entirely the Lords, whose Work is to consider the Reasons offered by the Commons, and give the Rule.

Anglesey, Cbandos, J. Bridgewater.

Die Jovis 12 Decembris, 1667.

Hodie 3^a vice lecta est Billa, An Act for banishing and disenabling the Earl of Clarendon.

The Question being put, whether this Bill shall pass?

It was resolved in the Affirmative.

I whose Name is underwritten do, according to the ancient Right and Usage of all the Peers of the Realm assembled in Parliament, after due Leave demanded from the House in the usual Manner and Form, as the Journal-Book doth shew, enter and record my Protestation and Dissent as follows :

1st,

1st, That without having ever been in Prison, or Imprisonment appointed, or any legal Charge brought, it seems unjust to punish the Earl of *Clarendon* for only withdrawing himself; it not being at all certain to the House, that he is gone out of the Kingdom; and if it were known to the Lords that he were fled beyond the Seas, tho' the Fault would be very great in a Person who hath lately been in such Trust, yet perpetual Exile, and being for ever disabled from bearing any Office, and the other Penalties in the Bill, seems too severe a Censure.

2^{dly}, That it may, perhaps, give some Occasion for the Scandal to have it believed, that *the House of Commons*, and others, by standing so long upon Pretence of a Privilege to require Commitment before special Matter of Treason assigned, were in doubt, that no Proof of Treason could be made out against the Party accused; and that they had therefore designed, through Terror, to make him fly and fear, lest he should yet return to be tried, in case they should bring in special Matter of Treason, as they ought to do, whensoever they accuse.

3^{dly}, That by this Bill, Power being taken from the King to pardon, it appeareth to be a great Intrenchment upon his Majesty's Royal Prerogative.

4^{thly}, That there can be no such Case, as hath been pretended, ever to cause a Necessity in *the House of Commons* not to acquaint the Lords with the Particulars openly made known to them, by which they were first satisfied to find Ground to accuse.

5^{thly}, That *the House of Commons*, so far judging any Article to be Treason, as to insist upon Commitment, without imparting the Particulars to the Lords, do seem therein to usurp that first Part of Judicature from the Lords, who are the highest Court of Justice in the Kingdom.

6^{thly}, That to require such Commitment seems to be contrary to the Petition of Right and *Magna Charta*, and the Rights not only of the Peers and great Persons of this Kingdom, but the Birth-right even of the meanest Subjects; and therefore those Proceedings not having been according to Law and the ancient Rules of Parliament, hath given Opportunity to *the Earl of Clarendon* to absent himself.

7thly, The Commitment upon a general Impeachment hath been heretofore, and may be again, of most evil and dangerous Consequence ; and, as is conceived, the Lords have yet no way for them so well to justify their fair and upright Proceedings in the Earl of *Clarendon's* Business, and the true Regard they have had herein to the King and Kingdom, as to decline this Bill of Banishment, and to expect a particular Accusation of the said Earl ; and thereupon according to Law and Justice to appoint him a Day for Appearance, which if he observe not, without farther Process, Sentence might lawfully be pronounced against him.

Stafforde.

We having this Day given our Negatives to the Passing of a Bill for the banishing and disabling the Earl of *Clarendon* ; and having asked Leave of the House to enter our Dissents, to the end that it may appear to Posterity that we did not give our Consents to that Bill, we do now take Liberty to enter our Dissents, by subscribing our Names.

*Berkeley of
Berkeley,*

*Holles,
Ro. Lexington,*

T. Culpeper.

Die Lunæ 22^a Novembris, 1669.

Hodie 3^a vice lecta est Billa, An Act for the limiting of certain Trials in Parliament and Privilege of Parliament, and for further ascertaining the Trials of Peers, and all other his Majesty's liege People.

The Question being put, whether this Bill shall pass ?
It was resolved in the Affirmative.

Memorandum, That before the putting the abovesaid Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Affirmative ; which being granted, they accordingly enter their Dissents, by subscribing their Names and Reasons following :

We humbly conceive, that if by reason of the great Charter, and some Acts confirming it, we are not disabled to alien, as to the Justiciary and other Privileges of Parliament and Peerage, yet thereby they are indicated to be fundamental, as we ought not to part therewith.

*Bolingbroke,
Dover,*

*Stafforde,
Basil Denbigh,*

Will. Petre.

Die

Die Jovis 25^o Novembris, 1669.

The House resumed the Debate which was on *Monday* last concerning the Business between *Bernard Grenville, Esq;* and *Jeremy Elwes, Esq;*

And after a serious Debate the Question being put, whether this Cause be now properly before their Lordships for any farther Directions to the Court of *Chancery*?

It was resolved in the Affirmative.

Memorandum; That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Affirmative; which being granted, they did accordingly enter their Dissents, by subscribing their Names and annexing their Reasons?

1st, Because by the Death of *Morley* the Suit in *Chancery*, wherein this House gave Direction, seems to us to be abated, and no longer depending there, till it shall be revived by the ordinary Course of that Court.

2^{dly}, Because that Court, if the Cause do yet depend, have made no final Decree upon the former Direction of the Lords House.

3^{dly}, We know of no Precedent, since the first Beginning of Parliament to this Day, nor were any shew'd, that ever a Decree in *Chancery*, upon Appeal to this House, being reversed, and Directions given for a new hearing of the Cause in that Court, the Lords did resume the Cause and give further Directions (before a final Decree) at the Solicitation of either of the Parties, where the Lord Keeper or Chancellor found no Difficulty in Proceedings on the first Directions.

4^{thly}, To admit an Appeal or new Resort to this House by either Party, upon an interlocutory Decree, or decretal Order, as this was, we conceive would endlessly multiply a Cause, be vexatious and chargeable to the Subject, and put this House to many Trials and Judgments in the same Cause, and take that Jurisdiction from the *Chancery* which is proper for them, *viz.* To mend their own Work upon *Bills of Review* or Reversal if Error or Mistake shall be found in their Proceedings or Decrees.

5^{thly}, If this sort of Appeal be allowed to the Plaintiff, the like cannot be denied to the Defendant, and so *toties quoties*; for there can be no Limitation, if either Side apprehend Danger, and resort to their Lordships for Explanation of the former or further Directions, until their Lordships set down a Rule how often the Plaintiff or Defendant may resort back to them upon interlocutory Proceedings.

6^{thly}, Tho' their Lordships have Power upon Appeal to reverse any Deeree of that Cause, yet, we humbly conceive, this House will not put the particular Equity, into the Conscience or Mouth of the Judge; but that the general Direction given in this Cause to proceed, as upon an equitable Mortgage, is as much as can be done (after the Relief already given in laying aside the Release and reversing the Decree given by the late Lord Chancellor) till after a final Decree either Party shall find Cause to Appeal.

7^{thly}, The further Direction their Lordships are moved to give in this Cause, is in a Point never stirred by the Plaintiff in his first Appeal, and may, for ought yet appears to their Lordships, never happen in the Case, or be made use of in the Decree of the Court of *Chancery* to be made; and therefore very improper for the Lords to interpose by Anticipation.

8^{thly}, This way of frequent and importunate Application to the Lords in the same Cause, before it be ripe for Hearing of Judgment, we conceive to be a dangerous Precedent, and both derogatory and dilatory to the Proceedings of this High Court.

| | | |
|------------------------|----------------------|------------------|
| <i>Cardigan,</i> | <i>Anglesey,</i> | <i>Essex,</i> |
| <i>Halifax,</i> | <i>C. Notingham,</i> | <i>T. Lucas.</i> |
| <i>J. Bridgewater,</i> | <i>Fauconberg,</i> | |

Die Sabbati 17^o Decembris, 1670.

Upon hearing Counsel at the Bar upon the Petition of *Robert Pitt* and others, and the Answer of *Robert Pelham* and others;

The Question being put, whether the Petitioners ought to be relieved upon their Petition?

It was resolved in the Affirmative.

The Question being put, whether, the Lord Keeper be

be directed from this House to lay aside the Dismission of the Bill in *Chancery*, and that the Heir at Law of *Sherley* the Testator be ordered by that Court to sell the Land and distribute the Money according to the Direction of the Will?

It was resolved in the Affirmative.

Memorandum, That before the putting of the above-said Questions, I desired Leave to enter my Dissent and Protestation, if the Questions were carried in the Affirmative; which being granted, I do accordingly enter my Dissent and Protestation as followeth:

That the Will, as to the Appointment of the Sale of the Lands in Question, being void in Law, there is no Equity to compel the Heir to sell the Lands in Question to his own Discretion; and if it should be otherwise, it would be of a dangerous Consequence; for then the Lord Keeper might, by the same Reason, make good all void Wills and other Assurances. *Ashley.*

Die Jovis 9^o Martii, 1670.

The House took into Consideration the Bill concerning Privileges of Parliament; and for the better Debate thereof, the House was adjourned into a Committee.

The House being resumed, the Question was put, whether this Bill shall be committed?

And it was resolved in the Negative.

Because, I conceive, there is no Colour of Law to claim a Privilege of Freedom from Suits; and for many other Reasons. *Anglesey.*

Upon the same Grounds the Earl of *Anglesey.*

Holles.

Die Mercurii 15^o Martii, 1670.

The Earl of *Dorset* reported, that the Committee for Petitions have considered the Petition of *John Cusack*, but cannot determine whether it came regularly before this House, because they know not whether any Appeal lies from the *Court of Claims* to the *Chancery* in *Ireland*; therefore humbly offers, as an Expedient, that this House would order some of the Judges in *Ireland* to certify whether an Appeal lies from the said *Court of Claims* to the *Chancery* in *Ireland*.

Upon this, the said Petition of *John Cusack* was read. And after Debate thereupon, the Question being put, whether it shall be ordered that the Execution of the Judgment against the said *John Cusack* shall be suspended?

It was resolved in the Affirmative.

Dissentient' Anglesey:

Because the Defendants were never yet summoned nor heard, and are not Parties to the Judgment; and for many other Reasons, very obvious, as I humbly conceive.

Die Martis 13^o Aprilis, 1675.

The Question being put, whether the humble Thanks of this House shall be now presented to his Majesty for his most gracious Speech?

It was resolved in the Affirmative.

Memorandum, That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Affirmative; and accordingly did enter their Dissents as followeth:

The Question being put to give the King Thanks for his Speech, and we proposing to thank his Majesty for his gracious Expressions in his Speech, and it being laid aside, do think fit to enter our Dissent to the Vote, as it is now passed, because of the ill Consequence we apprehend may be from it; and that we think this Manner of Proceeding not so suitable with the Liberty of Debate necessary to this House.

| | | |
|--------------------|-------------------|---------------------|
| <i>Stamford,</i> | <i>Clarendon,</i> | <i>Will. Paget,</i> |
| <i>Mobun,</i> | <i>Delamer,</i> | <i>Winchester,</i> |
| <i>P. Wharton,</i> | <i>Salisbury,</i> | <i>Sbafesbury.</i> |
| <i>Hallifax,</i> | | |

Die Mercurii 21^o Aprilis, 1675.

The Lords in a Committee of the whole House having debated on the Bill to prevent Dangers which may arise from Persons disaffected to the Government;

And the House being resumed, the Question was put, whether this Bill does so far intrench upon the Privileges of this House as it ought therefore to be cast out?

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Not Con. 61

It

It was resolved in the Negative.

Memorandum, That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Negative; and accordingly did enter their Dissents as followeth:

We whose Names are underwritten, being Peers of this Realm, do, according to our Rights, and the ancient Usage of Parliaments, declare, that the Question having been put, whether the Bill entitled, *An Act to prevent the Dangers which may arise from Persons disaffected to the Government*, doth so far intrench upon the Privileges of this House that it ought therefore to be cast out, it being resolved in the Negative; we do humbly conceive, that any Bill which imposeth an Oath upon the Peers, with a Penalty, as this doth, that upon the Refusal of that Oath they shall be made incapable of sitting and voting in this House; as it is a thing unprecedented in former Times, so is it, in our humble Opinion, the highest Invasion of the Liberties and Privileges of the Peerage that possibly may be, and most destructive of the Freedom which they ought to enjoy as Members of Parliament, because the Privilege of sitting and voting in Parliament is an Honour they have by Birth, and a Right so inherent in them and inseparable from them, that nothing can take it away, but what, by the Law of the Land, must withal take away their Lives, and corrupt their Blood: Upon which Ground we do here enter our Dissent from that Vote, and our Protestation against it.

| | | |
|-----------------------------|------------------------|-----------------------|
| <i>Buckingham,</i> | <i>Salisbury,</i> | <i>Basil Denbigh,</i> |
| <i>Howard, E. of Berks.</i> | <i>Mobun,</i> | <i>Stamford,</i> |
| <i>Delamer,</i> | <i>Halifax,</i> | <i>Holles,</i> |
| <i>Clarendon,</i> | <i>P. Wharton,</i> | <i>Ro. Eure,</i> |
| <i>Bedford,</i> | <i>Dorset,</i> | <i>Bristol,</i> |
| <i>Winchester,</i> | <i>J. Bridgewater,</i> | <i>Shaftesbury,</i> |
| <i>Ailsbury,</i> | <i>Say and Seale,</i> | <i>Will. Paget,</i> |
| <i>Grey de Rolleston,</i> | <i>Will. Petre,</i> | |

Die Lunæ 26. Aprilis, 1675.

The Bill last mentioned having been began again long debated in a Committee of the whole House,

And the House being resumed, the Question was put, whether

whether the Bill shall be committed to a Committee of the whole House?

It was resolved in the Affirmative.

Memorandum, That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissent, if the Question was carried in the Affirmative; and accordingly did enter their Dissent as followeth:

The Question being put, whether the Bill entitled, *An Act to prevent the Dangers which may arise from Persons disaffected to the Government*, should be committed? it being carried in the Affirmative; and we, after several Days Debate, being in no measure satisfy'd, but still apprehending that this Bill doth not only subvert the Privilege and Birth-right of the Peers, by imposing an Oath upon them, with the Penalty of losing their Place in Parliament, but also, as we humbly conceive, does strike at the very Root of Government, it being necessary to all Governments to have Freedom of Votes and Debates in those who have Power to alter and make Laws; and besides, the express Words of this Bill obliging every Man to abjure all Endeavours to alter the Government in the Church, without regard to any thing that Rules of Prudence in Government, or Christian Compassion to Protestant Dissenters, or the Necessity of Affairs at any time shall or may require: Upon these Considerations, we humbly conceive it too of dangerous Consequence to have any Bill of this Nature so much as committed, to enter our Dissent from that Vote, and Protestation against it.

| | | |
|--------------------|----------------------------|-----------------------|
| <i>Buckingham,</i> | <i>Winchester,</i> | <i>Basil Denbigh,</i> |
| <i>Stamford,</i> | <i>Shaftsbury,</i> | <i>Mobun,</i> |
| <i>Salisbury,</i> | <i>Clarendon,</i> | <i>Delamer,</i> |
| <i>Bristol,</i> | <i>Howard E. of Berks,</i> | <i>P. Wharton.</i> |

Die Jovis 29^o Aprilis, 1675.

Offence being taken at divers Expressions in the foregoing Protestation, the Lords who signed the same severally and voluntarily declared they had no Intention to reflect upon any Member, much less upon the whole House, and Debate had on some Questions propounded.

The Question was put, whether that the Reasons given
in

in the Protestation enter'd the 26th of this Instant *April* do reflect upon the Honour of this House, and are of dangerous Consequence ?

It was resolv'd in the Affirmative.

Memorandum, That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissent, if the Question was carried in the Affirmative ; and accordingly did enter their Dissent as followeth :

Whereas. it is the undoubted Privilege of every Peer in Parliament, when a Question is passed contrary to his Vote and Judgment, to enter his Protestation against it ; and that in Pursuance thereof the Bill entitled, *An Act to prevent the Dangers which may arise from Persons disaffected to the Government*, being conceived by some Lords to be of so dangerous a Nature, as that it was not fit to receive so much as the Countenance of a Commitment, those Lords did protest against the committing of the said Bill ; and the House having taken Exceptions at some Expressions in their Protestation, those Lords, who were present at the Debate, did all of them severally and voluntarily declare, that they had no Intention to reflect upon any Member, much less upon the whole House ; which, as is humbly conceived, was more than in Strictness did consist with that absolute Freedom of protesting, which is inseparable from every Member of this House, and was done by them more out of their great Respect to the House, and their earnest Desire to give all Satisfaction concerning themselves and the Clearness of their Intentions ; yet the House not satisfy'd with this their Declaration, but proceeding to a Vote, That the Reasons given in the said Protestation to reflect upon the Honour of the House, and are of dangerous Consequence ; which is, in our humble Opinion, a great discountenancing of the very Liberty of protesting ; we, whose Names are underwritten, conceiving ourselves and the whole House of Peers extremely concerned, that this great Wound should be given (as we do in all Humility apprehend) to so essential a Privilege of the whole Peerage of this Realm, as is their Liberty of protesting, do now (according to our unquestionable Right) make use of the same Liberty to en-

ter this our Dissent from, and Protestation against the said Vote.

| | | |
|----------------------------|----------------------------|-----------------------|
| <i>Buckingham,</i> | <i>Basil Denbigh,</i> | <i>Salisbury,</i> |
| <i>Aylesbury,</i> | <i>Holles,</i> | <i>Fitzwalter,</i> |
| <i>Winchester,</i> | <i>Bedford,</i> | <i>Shaftesbury,</i> |
| <i>Clarendon,</i> | <i>Say and Seale,</i> | <i>Halifax,</i> |
| <i>Delamer,</i> | <i>Dorset,</i> | <i>J. Bridgewater</i> |
| <i>Howard E. of Berks,</i> | <i>Mobun,</i> | <i>P. Wharton,</i> |
| <i>R. Eure,</i> | <i>Grey de Rollestone,</i> | <i>Audley.</i> |

Die Martis 4^o Maii, 1675.

The House was adjourned into a Committee to proceed in the Debate of the Matter Yesterday reported, touching the Bill to prevent the Dangers which may arise from Persons disaffected to the Government.

The House being resumed, the Lord *Privy Seal* reported, That the Committee have been in Debate of adding these Words to the first enacting Clause in the said Bill, after the Words (Justice of the Peace) *or have or shall have Right to sit and Vote in either House of Parliament*, and do think it fit, that those Words be added to that Clause, after the Words (Justices of the Peace.)

The Question being put, whether to agree with the Committee herein?

It was resolved in the Affirmative.

Memorandum, That before the putting of the above-said Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Affirmative, and accordingly did enter their Dissents as followeth:

Whereas upon the Debate on the Bill, entitled, *An Act to prevent the Dangers which may arise from Persons disaffected to the Government*, it was ordered by the House of Peers, the 30th of April last, that no Oath shall be imposed by any Bill or otherwise upon the Peers, with a Penalty, in Case of Refusal, to lose their Places and Votes in Parliament, or Liberty of Debates therein; and whereas also upon Debate of the said Bill, it was ordered, the 3d of this Instant May, that there shall be nothing in this Bill which shall extend to deprive either of the Houses of Parliament, or any of their Members, of their just, ancient Freedom and Privilege of debating

any

any Matters or Business which shall be propounded or debated in any of the said Houses, or at any Conferences or Committees of both or either of the said Houses of Parliament, or touching the Repeal or Alteration of any old, or preparing any new Laws, or the redressing of any publick Grievance; but that the said Members of either the said Houses, and the Assistants of *the House of Peers*, and every of them, shall have the same Freedom of Speech, and all other Privileges whatsoever, as they had before the making of this Act; both which Orders were passed as previous Directions to the Committee of the whole House, to whom the said Bill was committed, to the End that nothing should remain in the said Bill which might any ways tend towards the depriving of either of the Houses of Parliament, or any of their Members, of their ancient Freedom of Debates or Votes, or any other of their Privileges whatsoever; yet the House being pleased, upon the Report of the said Committee, to pass a Vote, that all Persons, who have or shall have a Right to sit and vote in either House of Parliament, shall be added to the first enacting Clause in the said Bill, whereby an Oath is to be imposed upon the Members of either Houses; which Vote, we whose Names are under-written, being Peers of this Realm, do humbly conceive is not agreeable to the said Two previous Orders; and it having been humbly offered and insisted upon by divers of us, that the Proviso in the late Act, entitled, *An Act for preventing Dangers which may happen from Popish Recusants*, might be added to the Bill depending, whereby the Peerage of every Peer of this Realm, and all their Privileges might be preserved in this Bill, as fully as in the said late Act; yet the House not pleasing to admit of the said Proviso, but proceeding to the passing of the said Vote, we do humbly, upon the Grounds aforesaid, and according to our undoubted Right, enter this our Dissent from and Protestation against the same.

| | | |
|----------------------------|------------------------|-----------------------|
| <i>Buckingham,</i> | <i>Bedford,</i> | <i>Basil Denbigh,</i> |
| <i>Howard E. of Berks,</i> | <i>Clarendon,</i> | <i>Shaftesbury,</i> |
| <i>P. Wharton,</i> | <i>Delamer,</i> | <i>Winchester,</i> |
| <i>Stamford,</i> | <i>Mohun,</i> | <i>R. Eure,</i> |
| <i>Salisbury,</i> | <i>J. Bridgewater,</i> | <i>Dorset.</i> |



Die Jovis 6^o Maii, 1675.

The Commons by Message signified they were informed, an Appeal was depending before the Lords at the Suit of *Sherley*, against Sir *John Fagg*, a Member of their House, to which he is ordered to answer; they therefore desired their Lordships to have Regard to their Privileges.

Which Message being considered, the Question was put, whether this Answer shall be now returned to the said Message, *viz.* That *the House of Commons* need not doubt but their Lordships will have a Regard to the Privileges of *the House of Commons*, as they have of their own?

It was resolved in the Affirmative.

Memorandum, That before the putting of the aforesaid Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Affirmative, and accordingly they do enter their Dissents.

Because the Answer voted to be sent to *the House of Commons* being the same that was sent down formerly in the Case of *Hale* and *Slingby*, hath, as we, with all Humility, do apprehend, been already mistaken by them, as a Condescension of this House to forbear proceeding in Judicature in Affairs of this Nature, and appears to us very liable to so great a Misconstruction, that it may seem, in some measure, to acknowledge that *the House of Commons* have a Claim to some Privilege in Judicature, which is a Thing that, we conceive, belongs solely to this House.

| | | |
|----------------------------|-----------------|------------------------|
| <i>Bedford,</i> | <i>Newport,</i> | <i>Basil Denbigh,</i> |
| <i>T. Calpeper,</i> | <i>Bristol,</i> | <i>J. Bridgewater,</i> |
| <i>Howard E. of Berks,</i> | <i>Dorset,</i> | <i>Shaftsbury.</i> |

Die Lunæ 10^o Maii, 1675.

Post Meridiem.

The House having heard the Council of *Dacre Barret* Plaintiff, and also the Council of the Lord Viscount *Lofius*, Defendant, upon an Appeal, desiring that a Decree made in Parliament the 3d of *May* 1642, on Behalf of the said Viscount, may be reversed; and long Debate and Consideration thereof,

The

The Question was put, whether this Decree shall be affirmed ?

It was resolved in the Negative.

We whose Names are underwritten, having, before the putting of the said Question, desired Leave of the House to enter our Protestation, if the same were carried in the Negative, do accordingly enter our Dissent and Protestation for the Reasons following.

1st, Because this Resolution retains a Complaint, which, upon weighty Grounds, appearing in the Judgment of Parliament, and in the Pleadings in this Cause, as we humbly conceive, ought to be dismissed.

2^{dly}, It is a very dangerous Precedent, and may be of ill Consequence to the Judicatory of this High Court, if not destructive thereunto, after above three and thirty Years to shake a Judgment made against an extrajudicial Decree of the Council-board in *Ireland*; grounded on a supposed parole Agreement pretended to be made four and fifty Years ago, and built upon a single Testimony, various in itself, for Manors and Lands of Inheritance, of a great yearly Value, and wholly destructive to the Family of a Viscount of that Kingdom; and all this, after the said Judgment fully executed, after Settlement of Marriage, for great and valuable Considerations, made upon the Heirs Male of the Family for Support of the Honour to them descendable, and divers Leases and Contracts touching several Parts of the Estate, and a great Portion of the Sister paid, chargeable on the Premises, and great Debts of the Lord Chancellor *Loftus*; and Part thereof sold and other Part mortgaged; all which Transactions have been founded upon the said Judgment in Parliament, and the said Estate quietly enjoyed under it ever since.

3^{dly}, Because it seems to us unreasonable, and very insecure for the Subject, that such a Judgment, upon the last Resort, vacating a Decree, vicious both in Form and Matter, and making a full Settlement between the Parties, should, after most of the Witnesses dead, and after those under whom the now Complainant claims, their Submission thereunto, and taking Benefit by the Execution thereof, and receiving some thousands of Pounds thereupon, be drawn into Question, and the Merits

Merits of the Cause reheard, much less, that new Matters should be admitted in a Cause so concluded.

4thly, We conceive the Plea of the Lord *Loftus*, upon the Matters aforesaid, to be good and valid in Law.

5thly, That to admit a Rehearing can only tend to impoverish the Parties and increate Divisions between near Relations, which the Honour and Wisdom of this High Court ever endeavours to prevent.

Anglesey, *Shaftesbury,* *Carlisle,*
W. Widdrington, *Vaughan Carbery,* *Basil Denbigh.*

Die Jovis 27^o Maii, 1675.

A Message was brought from *the House of Commons* by Sir *Thomas Lee* and others, to this Effect, That *the House of Commons* heretofore did desire a Conference touching their Privileges in the Case of Mr. *Onslow*, and their Lordships returned Answer, That their Lordships would send an Answer by Messengers of their own: *The House of Commons* looks upon this as a Case of great Consequence to the Privileges of their House; and therefore now desire a Conference concerning the Privileges of their House in the Case of Mr. *Onslow*.

The Lords enter'd into a serious Debate of this Message, and a Paper was offer'd to the House as an Answer to be returned to this Message. The said Paper was read as follows:

The Lords have considered of their Message, and shall be ever ready to grant *the House of Commons* a Conference in any thing which may concern the Privileges of their House; but they find that the Desire of this Conference is upon the same Ground with the former Message of the 21st Instant, which was upon the Answer sent by the Lords in the Case of Mr. *Onslow* of the 17th Instant, wherein the whole Case concerns the Judicature of the Lords, on which they can admit of no Debate, nor grant any Conference.

The Question being put, whether the Answer which shall be returned to this Message from *the House of Commons* shall be the Substance contained in this Paper?

It was resolved in the Negative.

Memorandum, Before the putting of the abovesaid Question,

Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Negative; which accordingly they did.

Because they do humbly conceive this Question, being carried in the Negative, deprives this House of the Advantage of making use of that Answer to *the House of Commons*, which would have been the surest Way to have justified and preserved the Right of the Lords of Judicature upon this Occasion.

*Grey de Rolleston, Stamford, Mobun,
J. Bridgewater.*

Die Jovis 24^o Novembris, 1675.

The Lords in a Committee of the whole House having debated upon appointing a Day for hearing the Appeal of Dr. *Sherley* against Sir *John Fagg*.

And the House being resumed, the Question was put, whether the 20th Day of this Instant *November* shall be the Day appointed for the hearing of the Cause between Dr. *Thomas Sherley* and Sir *John Fagg*.

It was resolved in the Affirmative.

Before the putting of the said Question, Leave being demanded and given to such Lords as thought fit (if the same were carried in the Affirmative) to enter their Protestation and Dissent; accordingly this Protestation is enter'd against the said Vote, for the Reasons following:

1st, Because it seems contrary to the Use and Practice of this High Court (which gives Example to all other Courts) upon a bare Petition of the Plaintiff Dr. *Sherley*, in a Cause depending last Session, and discontinued by Prorogation, to appoint a Day for hearing of the Cause before the Defendant is so much as summoned, or appears in Court, or to be alive.

2^{dly}, The Defendant, by the Rules of this Court, having Liberty upon Summons to make a new Answer, as Sir *Jeremy Whitcomb* was admitted, after Summons, to do last Session in *Darrell's* Cause against him, discontinued by Prorogation, or to mend his Answer, or to plead as he shall see Cause, is deprived of this and other Benefits of Law, by appointing a Day of Hearing without these essential Forms.

3^{dly}, It appears, by the Plaintiff's own shewing in his
Petition,

Petition, that his Case against a Purchaser is not relievable in Equity; and therefore ought to be dismiss'd without putting the Parties to a further Charge.

4^{thly}, It appears, by his own shewing, and the Defendant Sir *John Fagg's* Plea, that he comes hither *per saltum*, and ought to attend Judgment in the inferior Courts, if his Case is relievable, and not to appeal to the highest Court, till either Injustice is done him below, or erroneous Judgment given against him, and Relief denied him upon Review.

5^{thly}, The Danger of this Precedent is so universal, that it shakes all the Purchasers of *England*.

Anglesey.

Die Sabbati 20^o Novembris, 1675.

It was moved, that this House might make an humble Address to his Majesty for the Dissolution of this Parliament; which being long and seriously debated,

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The Question was put thereupon?

And,

It was resolved in the Negative.

We whose Names are underwritten, Peers of this Realm, having proposed, That an humble Address might be made to his Majesty from this House, that he would be graciously pleased to dissolve this Parliament, and the House having carried the Vote in the Negative; for the Justification of our loyal Intentions towards his Majesty's Service, and of our true Respect and Deference to this Honourable House, and to shew that we have no sinister or indirect Ends in this our humble Proposal, do, with all Humility, herein set forth the Grounds and Reasons why we were of Opinion that the said humble Address should have been made.

1st, We do humbly conceive, that it is according to the ancient Laws and Statutes of this Realm, that there should be frequent and new Parliaments, and that the Practice of several hundred Years hath been accordingly.

2^{dly}, It seems not reasonable, that any particular Number of Men should, for many Years ingross so great a Trust of the People, as to be their Representatives in the House of Commons, and that all other the Gentry,

Gentry, and the Members of Corporations of the same Degree and Quality with them, should be so long excluded; neither, as we humbly conceive, is it advantageous to the Government, that the Counties, Cities and Boroughs should be confined for so long a Time to such Members as they have once chosen to serve for them; the mutual Correspondence and Interest of those who choose, and are chosen, admitting great Variations in Length of Time.

3dly, The long Continuance of any such who are intrusted for others, and who have so great a Power over the Purse of the Nation, must, in our humble Opinion, naturally endanger the producing of Factions and Parties, and the carrying on particular Interests and Designs, rather than the Publick Good.

And we are the more confirmed in our Desires for the said humble Address, by reason of this unhappy Breach fallen out betwixt the two Houses, of which *the House of Peers* hath not given the least Occasion, they having done nothing but what their Ancestors and Predecessors have in all Time done, and what is according to their Duty, and for the Interest of the People that they should do; which notwithstanding *the House of Commons* have proceeded in such an unprecedented and extraordinary Way, that it is, in our humble Opinion, become altogether impracticable for the two Houses, as the Case stands, jointly to pursue those great and good Ends for which for which they were called. For these Reasons we do enter this our Protestation against and Dissent unto the said Vote.

| | | |
|--------------------|------------|-----------------|
| Buckingham, | Salisbury, | J. Bridgewater, |
| Sbafisbury, | Mobun, | F. Fauconberg, |
| Dorset, | Stamford, | Halifax, |
| Newport, | H. Sandys, | Winchester, |
| Westmoreland, | Howard E. | Yarmouth, |
| P. Wharton, | of Berks, | Chesterfield, |
| Delamer, | Clarendon, | Will. Petre, |
| Grey de Rolleston, | Townshend, | |

Die Jovis 15^o Martii, 1676.

Hodie 3^a vice lecta est Billa, An Act for further securing the Protestant Religion by Education of the Children.

cerning Leave to bring a Bill to bar him, his Right to the said Title is confessed, for he cannot be debarred of any Thing which he hath not a Right to; and this renders the Proceedings in this Case contradictory and inconsistent.

5^{thly}, The Petitioning the King to give Leave for such a Bill to be brought in, is to assist one Subject, *viz.* the Duke of *Buckingham*, against another, in point of Right, wherein Judges ought to be indifferent and impartial.

6^{thly}, This Way of Proceeding is unprecedented, against the Law and common Right, as we humbly conceive, after fair Verdicts, and Judgments in inferior Courts upon Title of Lands, which have long been in Peace, and vested in the Claimer by Descent, without Writ of Error brought, or Appeal, to suffer the same to be shaken or drawn in Question by a Bill.

7^{thly}, This Way by Bill, in a Case of Nobility, is to admit the Commons with us into Judicature of Peers.

8^{thly}, It is to make his Majesty Party in a private Case against a clear Right, to anticipate and pre-engage his Judgment in a Case, carried upon great Division, and Difference of Opinion in the House, and forestalls his Majesty's Royal Power and Prerogative, which ought to be free, to assent or dissent to Bills when they shall be tender'd to him by both Houses.

9^{thly}, After so many Years Delay to give no Answer to his Majesty's Reference, nor Judgment in the Claimer's Case, is a Way, in which the Kings of this Realm have not been heretofore treated, nor the Subjects dealt with.

10^{thly}, We conceive this Course, in the Arbitrariness of it, against Rules and Judgments of Law, to be derogatory from the Justice of Parliament, of evil Example; and of dangerous Consequence both to Peers and Commons.

Oxford,
Hunfdon,
Lawarr,

Danby,
Anglesey,

Tho. Culpeper,
Northampton.

Die Martis 9^o Julii, 1678.

The Petition reported formerly by a Committee, to be presented

presented to his Majesty, that he would give Leave to bring in a Bill to disable the Petitioner from claiming a Title to Viscount *Purbeck*, was read, and some Amendments made therein.

And the Question being put, whether this Petition, thus amended, shall be presented to the King?

It was resolved in the Affirmative.

Dissentient' Anglesey and Northampton :

For these Reasons : 1st, That this is a Transition from our Judicature in a Case of Nobility, wherein the Lords are sole Judges, to the Exercise of the Legislature, wherein the Commons have equal Share with us, and admits them Judges of Peerage, which I conceive ought not to be, if he be a Peer, as seems implied by proposing a Law to bar his Title ; and there is no need of a Law, if he be no Peer.

2^{dly}, If a Bill come in, the Case must be heard again, and then Judgment ought to be given, which (if against him) the Commons must credit upon the Proofs made here, where only Witnesses are sworn ; and therefore Judgment here ought to be final.

3^{dly}, This Petition is no Answer to his Majesty's Reference, and we leave him in Incertainty, when he asks our Opinion ; or desired the Royal Assent to nothing, if he hath no Title to be barred.

4^{thly}, If the Commons should reject a Bill sent to them, they establish him a Peer, by judging it injurious to bar him by a Law, and so would seem more tender of Peerage than we.

5^{thly}, Leave is asked of his Majesty, to bring in a Bill, when every Peer hath Right to do it in this Case, if he conceive himself aggrieved by a false Claim of Honour ; and therefore several Lords have been admitted Parties against him upon former Hearings, and Judgment given, in part, for him by a Vote, that he is not barred by the Fine of his Father.

6^{thly}, It seems against common Right to bar any By-bill, who claims a legal Title, without Forfeiture be in Case, and if so, there needs no Bill.

Memorandum, These six Reasons are written by the Lord Privy Seal's own Hand.

Die

Die Veneris 6^o Decembris, 1678.

An Address to desire his Majesty to cause Popish Recusants, reputed ones, and suspected Papists to be apprehended, disarmed and secured, was brought from the Commons and read.

And after some Debate, the Question was put, whether to agree to this Address as it is now worded?

It was resolved in the Affirmative.

Dissentient'

For that it is humbly conceived to be contrary to, and against Law in several Particulars, and both unjustifiable and dangerous for those that put it in Execution.

Northampton, Anglesey, Ferrers.

Die Martis 25^o Martii, 1679.

Hodie 2^a vice lecta est Billa, An Act for disabling Thomas Earl of Dunby.

And after some Debate, the Question being put, whether this Bill shall be now committed?

It was resolved in the Affirmative.

Dissentient' Anglesey; for these Reasons.

1st, Because no Summons or Hearing of the Party is first directed, which by the essential Forms of Justice ought to be.

2^{dly}, Because it's conceived this will be Error.

3^{dly}, Because it's a dangerous Precedent against all the Peers, to have so penal a Bill precipitated.

4^{thly}, Because no Committee can proceed on any Bill without hearing Parties, and no Peer is to be tried in Parliament, but by the whole *House of Peers*.

Having giving my Vote against the bringing in an Act, entitled, *An Act for the Disabling Thomas Earl of Danby*; and voting against the Commitment of the Bill, I enter my Dissent.

Berkeley.

Die Veneris 2^o Maii, 1679.

Hodie 3^a vice lecta est Billa, An Act for freeing the City of London and Parts adjacent from Popish Inhabitants.

The Question was proposed, whether this Bill shall be amended?

Then

Then this previous Question was put, whether this Question shall be now put?

It was resolved in the Negative.

Then the Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

Because this House hath sent down a Bill to *the House Commons*, for the better Discovery and speedy Con-
viction of Popish Recusants, wherein the Conviction of
recusancy was for refusing the Test, and not the Oaths;
the same Bill was sent down from this House about the
end of the last Parliament.

As also because there are Thousands of Dissenters that
will be faithful, even to Death, against the common
enemies the Papists, which, by the Addition of the
Oaths to the Test, may be tempted to think themselves,
Interest, obliged to take the Papists Parts against us.

| | | |
|------------------------|--------------------|------------------|
| <i>Sbaftsbury, Pr.</i> | <i>Huntingdon,</i> | <i>Stamford,</i> |
| <i>Berkeley,</i> | <i>Kent,</i> | <i>Delamer.</i> |
| <i>Derbey,</i> | <i>Chandos,</i> | |

Die Lunæ 15^o Novembris, 1680.

Hodie 12^a vice lecta est Billa, An Act for securing
the Protestant Religion, by disabling *James Duke of*
York to inherit the Imperial Crown of *England* and *Ire-*
land, and the Dominions and Territories thereunto be-
longing.

After Debate, the House was adjourned into a Com-
mittee for the freer Debate.

The House being resumed, it was propounded, that
the Question may be put for rejecting this Bill.

Contents 61 The Question was put, whether the
not Cont. 32 Question for rejecting this Bill shall
be now put?

It was resolved in the Affirmative.

Contents 63 Then the Question was put, whether
not Cont. 32 this Bill shall be rejected?

It was resolved in the Affirmative.

Dissentient

Because rejected upon the first reading.

Crew.

Die Martis 23^o Novembris, 1680.

The Question was propounded, whether there shall be a Committee appointed in order to join with a Committee of *the House of Commons* to debate Matters concerning the State of the Kingdom.

The Question being put, whether this Question shall be now put ?

It was resolved in the Affirmative.

Then the main Question was put, whether there shall be a Committee appointed in order to join with a Committee of *the House of Commons* to debate Matters concerning the State of the Kingdom ?

It was resolved in the Negative.

These Lords following, before the abovesaid Question was put, desired Leave to enter their Dissents, if the Question was carried in the Negative ; and accordingly do enter their Dissents and Reasons following :

Because we are fully convinced, in our Judgments, that the conferring of the Lords with the Commons, by a joint Committee of both Houses, is the most likely Way to produce a good Understanding between them, which we take to be most necessary at this Time for the Safety of the King's Person, and the Security of the Protestant Religion against the bloody Designs of the Papists, as also for the Redress of other Grievances, which the Nation at this Time lies under.

| | | |
|--------------------|----------------------|----------------------|
| <i>Buckingham,</i> | <i>Bedford,</i> | <i>Stamford,</i> |
| <i>Kent,</i> | <i>Essex,</i> | <i>Westmoreland,</i> |
| <i>Paget,</i> | <i>J. Lovelace,</i> | <i>Brooke,</i> |
| <i>Salisbury,</i> | <i>Macclesfield,</i> | <i>Monmouth,</i> |
| <i>Clare,</i> | <i>Sunderland,</i> | <i>P. Wharton,</i> |
| <i>Mulgrave,</i> | <i>Delamer,</i> | <i>F. Herbert.</i> |

Die Jovis 25^o Novembris, 1680.

A Petition of *James Percy* was read, desiring a Day may be appointed for him to be heard to make out his Title to the Earldom of *Northumberland*.

The Question was put, whether this Petition shall be rejected ?

It was resolved in the Affirmative.

Before the Question was put, the Earl of *Anglesey* desired

gave Leave to enter his Dissent, if the Question was carried in the Affirmative; and accordingly enters his Dissent.

Dissentient' Anglesey; for these Reasons:

1st, Because the Claim brought by Mr. Percy can be heard, examined and adjudged only in this House.

2^{dly}, It is a Right due to the Subject to petition this House, and the Cause is not to be under Prejudice or rejected till heard.

3^{dly}, It seems unprecedented, and against common Right and the constant Course of Parliamentary Justice.

4^{thly}, By such a way of proceeding he is barred of his Appeal from a Dismissal in a former Parliament, which can only have in this Parliament, before the Grounds thereof are so much as examined.

Die Veneris 7^o Januarii, 1680.

Articles of Impeachment against Sir *William Scroggs* of High Treason, and other great Crimes and Misdemeanors, brought from the Commons and read.

And a Question for committing him being propounded, The previous Question was put, whether this Question shall now be put?

It was resolved in the Negative.

Dissentient'

1st, We that are of Opinion, that he ought to be committed, are deprived of giving our Votes, by putting only the Question of Bail, we being rather for Bail than to let him go altogether free.

2^{dly}, We are of Opinion, that this Matter hath been twice adjusted betwixt both Houses, viz. in the Case of the Earl of *Clarendon*, and the Case of the Earl of *Dartmouth*.

Besides, we did think it very unsafe, and not agreeable to Justice, that he should be at large and execute his Place of Lord Chief Justice, whilst he lies under the Charge of an Impeachment of High Treason.

Lastly, It may deter the Witnesses, when they shall see him in such great Power and Place whom they are to accuse.

*Kent,
Salisbury,
Macclesfield,*

*Huntingdon,
Shaftesbury,
F. Herbert,*

D

*Monmouth,
Essex,
P. Wharton,*

Clarke,

| | | |
|--------------------|--------------------|----------------|
| <i>Clare,</i> | <i>Stamford,</i> | <i>Grey,</i> |
| <i>Bedford,</i> | <i>Cornwallis,</i> | <i>Paget,</i> |
| <i>Manchester,</i> | <i>Suffolke,</i> | <i>Rivers,</i> |
| <i>Rockingham,</i> | <i>Howard,</i> | <i>Crewe.</i> |

Die Sabbati 26^o Martii, 1681.

A Message was brought from *the House of Commons* by *Sir Leolin Jenkins* and others, in these Words: “ The
 “ Commons of *England* assembled in Parliament, having
 “ received Information of divers traiterous Practices and
 “ Designs of *Edward Fitzbarris*, have commanded me
 “ to impeach the said *Edward Fitzbarris*, of High
 “ Treason; and I do here in their Names, and in the
 “ Names of all the Commons of *England*, impeach
 “ *Edward Fitzbarris* of High Treason: They have
 “ further commanded me to acquaint your Lordships,
 “ that they will, within convenient Time, exhibit to
 “ your Lordships the Articles of Charge against him.”

Mr. Attorney-General gave the House an Account of the Examinations taken against *Edward Fitzbarris*, and said, He had an Order of the King's, dated the 9th of *March* Instant, to prosecute the said *Fitzbarris* at Law; and accordingly he hath prepared an Indictment against him at Law.

And after long Debate the Question was put, whether *Edward Fitzbarris* shall be proceeded with according to the Course of the Common Law, and not by way of Impeachment in Parliament at this time?

It was resolved in the Affirmative.

Memorandum, That before the putting of the above-said Question, Leave was asked for entring Protestations; which was granted.

Dissentient

Because that in all Ages it hath been an undoubted Right of the Commons to impeach before the Lords any Subject for Treasons, or any Crime whatsoever; and the Reason is, because great Offences, that influence the Government, are most effectually determined in Parliament.

We cannot reject the Impeachment of the Commons, because that Suit or Complaint can be determined nowhere else; for if the Party impeached should be indicted in the *King's-Bench*, or in any other Court, for the

the same Offence, yet it is not the same Suit ; for an Impeachment is at the Suit of the People, and they have an Interest in it ; but an Indictment is the Suit of the King : For one and the same Offence may intitle several Persons to several Suits ; as, if a Murder be committed, the King may indict at his Suit ; or the Heir, or the Wife of the Party murder'd, may bring an Appeal, and the King cannot release that Appeal, nor his Indictment prevent the Proceedings in the Appeal, because the Appeal is the Suit of the Party, and he hath an Interest in it.

'Tis, as we conceive, an absolute Denial of Justice, in regard (as 'tis said before) the same Suit can be tried no-where else : *The House of Peers*, as to Impeachments, proceed by virtue of their judicial Power, and not by their legislative ; and as to that Act, as a Court of Record, and can deny Suitors (especially the Commons of *England*) that bring legal Complaints before them, no more than the Justices of *Westminster-Hall*, or other Courts, can deny any Suit or criminal Cause that is regularly commenced before them.

Our Law saith, in the Person of the King, *Nulli negabimus Justitiam*, *We will deny Justice to no single Person* ; yet here, as we apprehend, Justice is denied to the whole Body of the People.

And this may be interpreted an exercising of an arbitrary Power, and will, we fear, have Influence upon the Constitution of the *English* Government, and be an Encouragement to all inferior Courts to exercise the same arbitrary Power, by denying the Presentments of Grand Juries, &c. for which at this time the Chief Justice stands impeached in *the House of Peers*.

This Proceeding may misrepresent *the House of Peers* to the King and People, especially at this time, and the more in the particular Case of *Edward Fitzharris*, who is publicly known to be concerned in vile and horrid Treasons against his Majesty, and a great Conspirator in the Popish Plot to murder the King, and destroy and subvert the Protestant Religion.

Kent,
Shaftesbury,
Macclesfield,
Herbert,

Bedford,
Stamford,
Westmoreland,
Salisbury,

Paget,
Cornwallis,
Huntingdon,
Clare,
Sunderland,

| | | |
|--------------------|--------------------|---------------------|
| <i>Sunderland,</i> | <i>P. Wharton,</i> | <i>Moxmouth,</i> |
| <i>Essex,</i> | <i>Mordaunt,</i> | <i>J. Lovelace.</i> |
| <i>Crewe,</i> | <i>Grey,</i> | |

Die Veneris 22^o Maii, 1685.

Upon Consideration of the Cases of the Earl of *Powis*, Lord *Arundell* of *Warder*, the Lord *Bellasis*, and the Earl of *Danby*, contained in their Petitions,

After some Debate the Question was put, whether the Order of the 19th of *March*, 1678-9, shall be reversed and annulled, as to the Continuance of Impeachments, in *statu quo*, from Parliament to Parliament?

It was resolved in the Affirmative.

According to the Right of Peers to enter their Dissent and Protestation against any Vote, propounded and resolved upon any Question in Parliament, we do enter our Dissent and Protestation to the aforesaid Vote or Resolution, for these Reasons, among many others :

1st, Because it doth, as we conceive, extrajudicially, and without a particular Cause before us, endeavour an Alteration in a judicial Rule and Order of the House in the highest Point of their Power and Judicature.

2^{dly}, Because it shakes and lays aside an Order made and renewed upon long Consideration, Debate, Report of Committees, Precedents, and former Resolutions, without permitting the same to be read, tho' called for by many of the Peers, and against weighty Reasons, as we conceive, appearing for the same, and contrary to the Practice of former Times.

3^{dly}, Because it is inherent in every Court of Judicature to assert and preserve the former Rules of Proceedings before them ; which therefore must be steady and certain, especially in this High Court, that the Subject, and all Persons concerned, may know how to apply themselves for Justice ; The very *Chancery*, *King's-Bench*, &c. have their settled Rules and standing Orders, from which there is no Variation.

Anglesey, Clare, Stamford.

Die Lunæ 25^o Maii, 1685.

Elizabeth Harvey having brought a Petition on Saturday

turday last against a Decree in *Chancery* in Favour of Sir *Thomas Harvey*, and Consideration had concerning the same,

The Question was put, that this House will not proceed upon the Petition of Mrs. *Harvey* until she doth personally appear, having the Protection of this House, or give sufficient Security to perform such Order as this House shall make?

It was resolved in the Affirmative.

Dissentient'

I do dissent to this Vote, being a heavy and unprecedented Obstruction to Judicature and Appeals.

Anglesey.

Die Mercurii 3^o Junii, 1685.

Upon Report from the Committee of the whole House, on the Bill for reversing the Attainder of the Lord Viscount *Stafford*.

The Question was put, whether this Bill, with the Amendments, shall be engrossed?

It was resolved in the Affirmative.

Dissentient'

1st, Because the Assertion in the Bill, of its being now manifest that the Viscount *Stafford* died innocent, and that the Testimony on which he was convicted was false, which are the sole Grounds and Reasons given to support the Bill, are destitute of all Proof, Warrant, or Testimony of Witness, or Matter of Record before us.

2^{dly}, That the Record of the *King's-Bench* read at the Committee concerning the Conviction, last Term, of one of the Witnesses for Perjury in collateral Points of Proof of no Affinity to the Lord *Stafford's* Trial, and given several Years before, 'tis conceived, can be no Ground to invalidate the Testimony upon which the said Viscount was convicted, which could never legally be by one Witness, and was, in fact, by the Judgment of his Peers, on the Evidence of at least three.

3^{dly}, It's conceived, the said Judgment in the *King's-Bench*, and the whole Proceedings, were unprecedented, illegal and unwarrantable, highly derogatory to the Honour, Judicature and Authority of this Court, who

have Power to question and punish Perjuries of Witnesses before them, and ought not to be imposed upon by the Judgments of inferior Courts, or their Attainders of a Peer, invalidated by Implication; and the Popish Plot so condemn'd, pursued and punished by his Majesty and four Parliaments, after publick solemn Devotion through the whole Kingdom, by Authority of Church and State, to be eluded to the Arraignments and Scandal of the Government, and only to be restoring of the Family of one Popish Lord; and all this being without any Matter judicially appearing before us to induce the same, and the Records of that Trial not suffered to be read for Information of the Truth before the passing of the Bill.

Lastly, For many other weighty Reasons offered and given by divers Peers in the two Days Debate of this Bill, both in the Committees and the House. *Anglesey.*

Die Jovis 4^o Junii, 1685.

Hodie 3^a vice lecta est Billa, An Act for reversing the Attainder of William late Viscount Stafford.

The Question being put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

I *Anglesey* protest against this Bill's passing, for the same Reasons enter'd the Day before.

I protest against this Bill, because the Preamble was not amended, and no Defect in Point of Law alledged as a Reason for the Reversal of the Attainder. *Clare.*

Die Mercurii 6^o Martii, 1688.

Hodie 3^a vice lecta est Billa, An Act for the better Regulation of Trials.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Leave was given to any Lords to enter their Dissents; and accordingly these Lords following enter'd their Dissents in the Reasons following:

1st, Because nothing ever was or may be put into an Act of Parliament, that can reflect so much upon the Honour of the Peerage as this will.

2^{dly}, Because this sets the Honour of the Peers and the Commons upon an equal Foot. 3^{dly}.

3^{dly}, Because such Persons as may have Causes to be heard at the Bar of this House will not be so confident of the Justice of the Peers, and consequently be jealous of the Right that may be expected upon Impeachments.

4^{thly}, Because this strikes at the Root of all the Privileges of the Peers, most of which they claim by reason of the great Regard that the Law has to the Honour and Integrity of the Peers above that of the Commons; the Statute *de Scandalis Magnatum* being enacted for that Reason only.

5^{thly}, Because it will be, in some sort, a Mark of Reproach upon every Peer who shall be challenged, unless there be very great and apparent Cause for it.

6^{thly}, Because this will tend to maintain Feuds and Animosities amongst the Peers.

7^{thly}, Because, at this time, it is unreasonable, considering the late Disputes and Divisions that have been in this House.

8^{thly}, Because the Honour of every Man, much more of a Peer, is, or ought to be more valuable than his Life.

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|------------------------|--------------------|---------------------|
| <i>Delawar,</i> | <i>Stamford,</i> | <i>Winchester,</i> |
| <i>North and Grey,</i> | <i>Pembroke,</i> | <i>Bedford,</i> |
| <i>Kingston,</i> | <i>Lucas,</i> | <i>Manchester,</i> |
| <i>Lindsey, G. C.</i> | <i>H. London,</i> | <i>Norfolk and</i> |
| <i>Craven,</i> | <i>Morley and</i> | <i>Marshall,</i> |
| <i>Northampton,</i> | <i>Mounteagle,</i> | <i>Berkeley, S.</i> |
| <i>Delamar,</i> | | |

Die Jovis 21^o Martii, 1688.

The House having been in Consideration of the Bill for abrogating the Oaths of Allegiance and Supremacy, and establishing others in their Place.

A Clause for repealing so much of the Test-Act as concerns the receiving the Sacrament was read.

And the Question being put, whether to agree to the said Clause?

It was resolved in the Negative.

Leave was given by the House to such Lords as will, to enter their Dissents, and accordingly these Lords following do enter their Dissents, for the Reasons following:

1st, Because a hearty Union amongst Protestants is a greater Security to the Church and State than any Test that can be invented.

2^{dly}, Because this Obligation to receive the Sacrament is a Test on Protestants rather than on the Papists.

3^{dly}, Because so long as it is continued, there cannot be that hearty and thorough Union amongst Protestants as has always been wished, and is at this time indispensably necessary.

4^{thly}, Because a greater Caution ought not to be required from such as are admitted into Offices than from the Members of the two Houses of Parliament, who are not obliged to receive the Sacrament to enable them to sit in either House.

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|------------------------|-----------------|--------------------|
| <i>North and Grey,</i> | <i>Delamer,</i> | <i>Stamford,</i> |
| <i>Chesterfield</i> | <i>Grey,</i> | <i>P. Wharton.</i> |
| <i>J. Lovelace,</i> | <i>Vaughan,</i> | |

Die Sabbati 23^a Martii, 1688.

Hodie 3^a vice lecta est Billa, An Act for the abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths.

A Rider (in Parchment) providing, that no Officer shall incur the Penalties of the Test-Act, in case he shall receive the Sacrament in any Protestant Congregation within a Year before or after his Admission, was offered and read.

And the Question being put, whether this Rider shall be made Part of the Bill?

It was resolved in the Negative.

Leave was given to such Lords as will, to enter their Dissents, and these Lords do enter their Dissents in the Reasons following :

1st, Because it gives great Part of the Protestant free Men of *England* Reason to complain of Inequality and hard Usage, when they are excluded from publick Employments by a Law, and also, because it deprives the King and Kingdom of divers Men fit and capable to serve the Public in several Stations, and that for a mere Scruple of Conscience, which can by no means render them suspected, much less disaffected, to the Government.

2^{dly}, Because his Majesty, as the common and indulgent Father of his People, having expressed an earnest *Desire of Liberty* for tender Consciences to his Prote-

stant

stant Subjects; and my Lords the Bishops having, divers of them, on several Occasions professed an Inclination, and owned the Reasonableness of such a Christian Temper; we apprehend, it will raise Suspicions in Mens Minds of something different from the Case of Religion or the Publick, or a Design to heal our Breaches, when they find, that by confining secular Employments to ecclesiastical Conformity, those are shut out from Civil Affairs whose Doctrine and Worship may be tolerated by Authority of Parliament, there being a Bill before us, by Order of the House, to that Purpose; especially when, without this exclusive Rigour, the Church is secured in all her Privileges and Preferments, no body being hereby let into them who is not strictly conformable.

3dly, Because to set Marks of Distinction and Humiliation on any Sort of Men, who have not render'd themselves justly suspected to the Government, as it is at all Times to be avoided by the Makers of just and equitable Laws, so may it be particularly of ill Effect to the reformed Interest at home and abroad, in this present Conjuncture, which stands in Need of the united Hands and Hearts of all Protestants against the open Attempts and secret Endeavours of a restless Party, and a potent Neighbour, who is more zealous than *Rome* itself to plant Popery in these Kingdoms, and labours, with his utmost Force, to settle his Tyranny upon the Ruins of the Reformation all through *Europe*.

4thly, Because it turns the Edge of a Law (we know not by what Fate) upon Protestants and Friends to the Government, which was intended against Papists, to exclude them from Places of Trust, as Men avowedly dangerous to our Religion and Government; and thus the taking the Sacrament, which was enjoined only as a Means to discover Papists, is now made a distinguishing Duty amongst Protestants, to weaken the whole by casting off a Part of them.

5thly, Because Mysteries of Religion and divine Worship are of divine Original, and of a Nature so wholly distant from the secular Affairs of publick Society, that they cannot be applied to those Ends; and therefore the Church, by the *Law of the Gospel*, as well as common *Prudence*, ought to take Care not to offend either ten-

der Conſciences within itſelf, or give Offence to thoſe without, by mixing their ſacred Myſteries with ſecular Interests.

Sabbly, Becauſe we cannot ſee how it can conſiſt with the Law of God, common Equity, or the Right of any free-born Subject, that any one be puniſhed without a Crime: If it be a Crime not to take the Sacrament according to the Uſage of the Church of *England*, every one ought to be puniſhed for it, which no body affirms; if it be no Crime, thoſe who are capable, and judged fit for Employments by the King, ought to be puniſhed with a Law of Excluſion, for not doing that which is no Crime to forbear: If it be urged ſtill, as an effectual Teſt to diſcover and keep out Papiſts, the taking the Sacrament in thoſe Proteſtant Congregations, where they are Members and known, will be at leaſt as effectual to that Purpoſe.

Oxford, *Mordaunt,* *J. Lovelace,*
R. Montague, *P. Wharton,* *W. Paget.*

Die Veneris 5^o Aprilis, 1689.

The Houſe reſumed the Debate of the Report of the Amendments made by the Committee in the Bill for uniting their Majesties Proteſtant Subjects.

The Clause in Conſideration was concerning a Commiſſion to be given out, by the King, of Biſhops and others of the Clergy.

And after ſome Debate it came to this Queſtion, *viz.*

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|---|--|
| Whether theſe Words (and Laity) ſhall be added? | |
| Contents 28 } Proxies 1 } Not Cont. 27 } Proxies 2 } | 29 The Queſtion being put, the Votes (with the Proxies) were equal; then, according to the ancient Rule in like Caſes, <i>ſemper præſumitur pro aſſentante</i> . |

Leave was given for any Lords to enter Diſſents; accordingly theſe Lords following do enter their Diſſents in the Reaſons enſuing:

1^{ſt}, Becauſe the Act itſelf being, as the Preamble ſets forth, deſigned for the Peace of the State, the putting the Clergy into the Commiſſion, with a total Excluſion of the Laity, lays this Humiliation on the Laity, as if the Clergy of the Church of *England* were alone Friends to the Peace of the State, and the Laity leſs able, or leſs concerned to provide for it.

2dly, Because the Matters to be considered being barely of human Constitution, *viz.* the Liturgy and Ceremonies of the Church of *England*, which had their Establishment from the King, Lords Spiritual and Temporal, and Commons, assembled in Parliament, there can be no Reason why the Commissioners for altering any Thing in that Civil Constitution should consist only of Men of one Sort of them, unless it be supposed that human Reason is to be quitted in this Affair, and the Inspiration of spiritual Men to be alone depended on.

3dly, Because, tho' upon *Romish* Principles, the Clergymen have a Title alone to meddle in Matters of Religion, yet with us they cannot, where the Church is acknowledged and defined to consist of Clergy and Laity; and so these Matters of Religion which fall under human Determination, being properly the Business of the Church, belong equally to both; for in what is of divine Institution, neither Clergy nor Laity can make any Alteration at all.

4thly, Because the pretending that Differences and Delays may arise by mixing Lay-men with Ecclesiasticks, to the frustrating the Design of the Commission, is vain and out of Doors; unless those that make Use of this Pretence suppose the Clergy Part of the Church have distinct Interests or Designs from the Lay-part of the same Church; and this will be a Reason, if good, why one or other of them should quit the House for fear of obstructing the Business of it.

5thly, Because the Commission being intended for the Satisfaction of Dissenters, it would be convenient that Lay-men of different Ranks, nay perhaps of different Opinions too, should be mixed in it, the better to find Expedients for that End, rather than Clergymen alone of our Church, who are generally observed to have very much the same Way of reasoning and thinking.

6thly, Because it is the most ready Way to facilitate the passing Alterations into a Law, that Lay-Lords and Commons should be joined in the Commission, who may be able to satisfy both Houses of the Reasons upon which they were made, and thereby remove all Fears and Jealousies ill Men may raise against the Clergy, of their endeavouring to keep up, without Grounds, a distinct
Int. rest

Interest from that of the Laity, whom they so carefully exclude from being joined with them in Consultations of common Concernment, that they will not have those have any Part in the Deliberation, who must have the greatest in determining.

7tly, Because such a restrained Commission lies liable to this great Objection, that it might be made Use of to elude repeated Promises and the present general Expectation of Compliance with tender Consciences, when the providing for it is taken out of the ordinary Course of Parliament, to be put into the Hands of those alone who were latest in admitting any need of it, and who may be thought the more unfit to be the sole Composers of our Differences, when they are looked upon by some as Parties.

Lastly, Because, after all, this carries a dangerous Supposition with it, as if the Laity were not a Part of the Church, nor had any Power to meddle in Matters of Religion; a Supposition directly opposite to the Constitution both of Church and State, which will make all Alterations utterly impossible, unless the Clergy alone be allowed to have Power to make Laws in Matters of Religion, since what is established by Law cannot be taken away or changed, but by Consent of Laymen in Parliament, the Clergy themselves having no Authority to meddle in this very Case, in which the Laity are excluded by this Vote, but what they derive from Lay hands.

Winchester, Mordaunt, J. Lovelace.

I dissent for this and other Reasons:

Because it is contrary to three Statutes made in the Reign of *Henry VIII.*, and one in *Edward VI.*, which impowers thirty-two Commissioners to alter the Canon and Ecclesiastical Laws, &c. whereof sixteen to be of the Laity and sixteen of the Clergy. *Stamford.*

Die Sabbati 20^o Aprilis, 1689.

Reasons offered by the Commons at a Conference, why they could not agree to some of the Amendments made by the Lords to the Bill for abrogating the Oaths of Allegiance and Supremacy, having been reported,

Contents 32 The Question was put, whether to agree
Not Cont. 36 with *the House of Commons?*

It was resolved in the Negative.

Leave

Leave was given to such Lords as would to enter their Dissents ; and accordingly these Lords following do enter their Dissents in these Reasons ensuing :

The Bishops and Clergy not to be excused from taking the Oaths of Allegiance.

1st, Because by the same Reason that any Part of the Subjects may be excused from giving Assurance of their Allegiance and Fidelity to the Government, all may, and the Government will be left perfectly precarious.

2^{dly}, Because the Clergy, and especially the Bishops, receiving their Benefices, Dignities and Preferments from the Publick, ought to be the first and forwardest, by their Doctrine and Example, to teach others their Obligations to be zealous in preserving the Government, as well as Religion established by Law.

3^{dly}, Because the Pretence of Scruple and Tenderness of Conscience can have no other Foundation in the present Case, but the Supposition of some former Obligation, no one ever scrupling to give all Manner of Pledges of his Allegiance, where he thought it due ; those therefore that scruple ought the more to be pressed and the sooner brought to the Test, unless any one can think it reasonable the Government should favour, encourage and indulge those that will not give the usual Security that they are not Enemies to it.

4^{thly}, Because, however the King may, that Part of the People who have sworn Allegiance to him cannot have Reason to be satisfy'd, when they see another Part of the Nation under looser Obligations to the Government than they ; nothing being so apt to raise Fears, Jealousies and Disorders in a State, as unnecessary Distinctions, or any Cause of Suspicion of want of Unanimity or Fidelity among themselves in the great Concernments of the Kingdom, especially in the Titles of the Crown, and at such Time as this, when we are entering into War with a potent Enemy, who openly owns and supports a contrary Title.

5^{thly}, Because it will discourage our Allies, and give them a lower Opinion of our King's Interest in his People or Authority over them than is for the Advantage of this Kingdom in particular, or the Protestant Religion through *Europe*, when they shall understand, that those
that

Die Sabbati 25^o Maii, 1689.

A printed Paper was brought into the House which was dispersed abroad: *Titus Oates* being called in was asked by the Speaker, whether he did own this Paper? and he answered, he did own this Paper.

And the same being read, the Question was put, whether the said Paper doth contain Matter tending to the Breach of the Privilege of this House?

Consents 29
Not Cons. 18

It was resolved in the Affirmative.

Leave was given to such Lords as would to enter their Dissents; and accordingly these Lords following do enter their Dissents in these Reasons ensuing:

1st, For that the Matter resolved to be a Breach of the Privilege of this House is not plainly and distinctly expressed in the said Vote, as we humbly conceive it ought to be; nor doth it appear therein what particular Privilege of this House is broken by any Matter contained in the said Paper; and therefore this Vote can be of no support any Privileges of this House, or prevent the Breach of any of them for the future.

2^{dy}, Because the said Vote may tend to the Disunion of both Houses, which, we humbly conceive, may prove of dangerous Consequence to the King and Kingdom; we apprehending the whole Drift of the said Paper to be in order to have Relief in a legislative Way, and accordingly the Case and Prayer is directed to both Houses.

3^{dy}, Because this Day being appointed, by Order of the House, to have the Opinion of the Judges on the Writ of Error in the Case of the said *Titus Oates*, and the said Judges attending accordingly, we did think it proper that this Honourable House would have heard their Opinion in the said Case; and thereupon have (according to the usual Course of other Courts of Judicature in such Cases) proceeded to Sentence before the coming into Consideration the said Paper, introduced but this Morning into the House.

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|--------------------|----------------------|------------------|
| <i>Bolton,</i> | <i>Macleisfield,</i> | <i>Stamford,</i> |
| <i>Cornwallis,</i> | <i>P. Wharton,</i> | <i>Sydney.</i> |

Die

that are looked on to be Directors of other Mens Consciences cannot bring their own to acknowledge him in this first and fundamental Act of Obedience; and what must they conclude, when they hear that the Parliament hath dispensed with such an exemplary Part of the Nation in a Business of such Moment?

6^{thly}, Because it may be of ill Consequence, if the Parliament should set any Thing like a Mark of Disaffection to the Government on that sacred Order, by allowing them now a Dispensation from taking a very moderate Oath of Allegiance, who, in a late Reign, were too forward and zealous by Addresses, preaching and promoting new Oaths, to carry Loyalty and Obedience to Monarchy to a Pitch unknown to our ancient Laws or former Ages.

7^{thly}, Because there being no other Assurance of any one owning himself a Subject to any Government, but either acting under or swearing to it, it is very necessary that those who forbear to act should, of all others, be most strictly required to take the Oaths, that the Publick might have that Security of their Allegiance, from those that refuse the others.

8^{thly}, Because it is unreasonable that, for a Part of the Clergy, the whole Laity and Clergy should be exposed to the Inconvenience of want of Justice, and the Dangers of Disorders for want of settling the Militia; the renewing of all Commissions being delayed, to the great Prejudice of the Government and the People, till this Act be passed: And therefore we do not see why this House should not comply with the Commons in the present Necessity, tho' their Vote be hard on a Part of the Subjects; whereas the utmost that can be pretended in this Case is only contending for an extraordinary Favour and an unheard-of Allowance to some scrupulous Men.

9^{thly}, Because it is what neither History can parallel, nor any Policy justify, to allow any Part of the People who claim Protection from the Government, to be excused from giving the common and necessary Assurances of Allegiance and Fidelity to it; and it is hard to think, how any one that intends to be faithful to it should come so near renouncing the Government, as to desire to be dispensed with from being under the same Ties with others, their Fellow-Subjects, not to do so.

Macclesfield,

Monmouth,

Die

Die Sabbati 25^o Maii, 1689.

A printed Paper was brought into the House which was dispersed abroad; *Titus Oates* being called in was asked by the Speaker, whether he did own this Paper? and he answered, he did own this Paper.

And the same being read, the Question was put, whether the said Paper doth contain Matter tending to the Breach of the
 Contents 29 Not Cont. 18 Privilege of this House?

It was resolved in the Affirmative?

Leave was given to such Lords as would to enter their Dissents; and accordingly these Lords following do enter their Dissents in these Reasons ensuing:

1st, For that the Matter resolved to be a Breach of the Privilege of this House is not plainly and distinctly expressed in the said Vote, as we humbly conceive it ought to be; nor doth it appear therein what particular Privilege of this House is broken by any Matter contained in the said Paper; and therefore this Vote can be of no use to support any Privileges of this House, or prevent the Breach of any of them for the future.

2^{dly}, Because the said Vote may tend to the Disunion of both Houses, which, we humbly conceive, may prove of dangerous Consequence to the King and Kingdom; we apprehending the whole Drift of the said Paper to be in order to have Relief in a legislative Way; and accordingly the Case and Prayer is directed to both Houses.

3^{dly}, Because this Day being appointed, by Order of the House, to have the Opinion of the Judges on the Writ of Error in the Case of the said *Titus Oates*, and the said Judges attending accordingly, we did think it proper that this Honourable House would have heard their Opinion in the said Case; and thereupon have (according to the usual Course of other Courts of Judicature in such Cases) proceeded to Sentence before the taking into Consideration the said Paper, introduced but this Morning into the House.

Bolton,

Cornwallis,

Maclesfield,

P. Wharton,

Stamford,

Sydney.

Die

Die Veneris 31^o Maii, 1689.

The Lords having heard the Opinion of all the Judges concerning the Illegality of the two Judgments against *Titus Oates* upon the Point of Perjury, for which he hath brought his Writs of Error into this House to have them reversed.

The Question was put, whether to reverse the said two Judgments?
Contents 23
Not Cont. 35

It was resolved in the Negative.

Leave was given to such Lords as will to enter their Dissents; and accordingly these Lords following do enter their Dissents in these Reasons following:

1st, For that the *King's-Bench*, being a Temporal Court, made it Part of the Judgment that *Titus Oates*, being a Clerk, should, for his said Perjuries, be divested of his Canonical and Priestly Habit, and to continue divested all his Life; which is a Matter wholly out of their Power, belonging to the Ecclesiastical Courts only.

2^{dly}, For that the said Judgments are barbarous, inhuman and unchristian; and there is no Precedent to warrant the Punishments of whipping and committing to Prison for Life, for the Crime of Perjury; which yet were but Part of the Punishments inflicted upon him.

3^{dly}, For that the particular Matters, upon which the Indictments were found, were the Points objected against Mr. *Titus Oates's* Testimony, in several of the Trials, in which he was allowed to be a good and credible Witness, though testified against him by most of the same Persons who witnessed against him upon these Indictments.

4^{thly}, For that this will be an Encouragement and Allowance for giving the like cruel, barbarous and illegal Judgments hereafter, unless this Judgment be reversed.

5^{thly}, Because Sir *John Holt*, Sir *Henry Pollexfen*, the two chief Justices, and Sir *Robert Atkins*, the Chief Baron, with six Judges more, (being all that were then present) for these and many other Reasons, did, before us, solemnly deliver their Opinions, and unanimously declare that the said Judgments were contrary to Law and ancient Practice; and therefore erroneous, and ought to be reversed.

6^{thly}, Because it is contrary to the Declaration, on the 12th of *February* last, which was ordered by the Lords

Lords Spiritual and Temporal and Commons then assembled, and by their Declaration ingrossed in Parchment, and inrolled among the Records of Parliament, and recorded in Chancery, whereby it doth appear, that excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel nor unusual Punishments inflicted.

| | | |
|--------------------|------------------------|---------------------|
| <i>Bolton,</i> | <i>Macclesfield,</i> | <i>Stamford,</i> |
| <i>Oxford,</i> | <i>Bathe,</i> | <i>Newport,</i> |
| <i>Grey,</i> | <i>Cornwallis,</i> | <i>R. Eure,</i> |
| <i>P. Wharton,</i> | <i>J. Bridgewater,</i> | <i>Bolingbroke.</i> |
| <i>Herbert,</i> | <i>Vaughan,</i> | |

Die Martis 25^o Junii, 1689.

The House having heard the Opinion of all the Judges in the Case of Sir *Samuel Barnardiston* upon his Writ of Error depending in this House.

And the Question being put, whether to go on in the Debate of this Business now?

It was resolved in the Affirmative.

After Debate, the Question was put, whether to reverse the Reversal of the Judgment given between Sir *Samuel Barnardiston* and Sir *William Soams*?

It was resolved in the Negative.

Leave is given to several Lords to enter their Dissents to the abovesaid Question, and accordingly do enter their Dissents in the Reasons following:

1st, Because, it is a denying Sir *Samuel Barnardiston* the Benefit of Law, which gives Relief in all Wrong and Injury; and though this be an Action of the first Impression, yet here being a Damage to the Plaintiff, the common Law gives him this Action to repair himself; and were it not so, there would be a Failure of Justice, which cannot be admitted.

2^{dly}, Because the allowing this Reversal tends towards the giving Power and Encouragement to the Sheriffs to make false and double Returns, by which means the Right of Elections will be avoided, and it tends thereby to the packing of a *House of Commons*, which may overturn the whole Frame of the Government, and establish what Religion and Government a pack'd Parliament shall think fit.

| | | |
|--------------------|----------------------|-----------------|
| <i>Bolton,</i> | <i>Stamford,</i> | <i>Herbert.</i> |
| <i>P. Wharton,</i> | <i>Macclesfield,</i> | |

Die

Die Veneris 12^o Julii, 1689.

The Lord President reported, from the Sub-committee, the Bill entitled, *An Act for reversing two Judgments given in the Court of King's-Bench against Titus Oates, Clerk*, wherein they have made several Amendments and added a Proviso drawn by the Judges ; which Amendments and Proviso were read, and then read one after the other as follows :

Third Press 29 Line, after the Word (erroneous (read (unprecedented and so) and after (illegal, and are of ill Example to future Ages) read (that the Practice thereof ought to be prevented for the time to come.)

| | | | | |
|-----------|----|---|----|--|
| Contents | 31 | } | 40 | The Question was put, whether to agree to this Amendment ? |
| Proxies | 9 | | | |
| Not Cont. | 27 | } | 32 | It was resolved in the Affirmative. |
| Proxies | 5 | | | |

Thirty-fourth Line, after (*King's-Bench*) leave out these Words (and the Judgments given on the said Writs of Error.)

The Question was put whether to agree to this Amendment ?

It was resolved in the Affirmative.

Thirty-seventh Line, after the Word (Judgments) add (in the Court of *King's-Bench*.)

The Question was put, whether to agree to this Amendment ?

It was resolved in the Affirmative.

Thirty-seventh Line, after the Word (defaced) leave out (any Thing to the contrary thereof in any wise notwithstanding) and read (and it is hereby further enacted by the Authority aforesaid, that it shall not be lawful at any Time hereafter to inflict the like excessive Punishments again on any Person whatsoever.)

The Question was put, whether to agree to this Amendment ?

It was resolved in the Affirmative.

Then the following Proviso was read.

Provided always, and be it hereby enacted and declared by the Authority aforesaid, that until the said Matters for which the said *Titus Oates* was convicted as aforesaid for Perjury, be heard and determined in Parliament,

liament, that the said *Titus Oates* shall not be received in any Court, Matter or Cause whatsoever, to be a Witness or give any Evidence ; any thing in this Act in any wise contained to the contrary notwithstanding.

The Question was put, whether to agree to this Proviso.

It was resolved in the Affirmative.

Leave was given to any Lords to enter their Dissents, and these Lords following do enter their Dissents to the several forgoing Questions for these Reasons :

To the First.

Because we are of Opinion, that the Judgments given in the Court of *King's-Bench* against *Titus Oates* are altogether illegal and cruel, and not capable of being qualified in Justice or Law, by the Words (unprecedented and so cruel and illegal, that the Practice thereof ought to be prevented for the time to come) but ought plainly to be declared positively against Law, Justice, and the undoubted Right of the Subject.

To the Second.

Because we are of Opinion, that no Merit or Demerit of any Person appealing to *the House of Lords*, or bringing thither a Writ of Error, ought to have any Weight with the Lords in giving Judgment ; and therefore no Reason why the said Judgments ought not to be reversed by the Legislative Power, since the supreme Court of Judicature (the Lords in Parliament) is the utmost Resort any Person can have for Justice, except the Legislative Power.

To the Third.

Because we are of Opinion, that barely saying (it shall not be lawful at any Time hereafter to inflict the like excessive Punishments again) is not strong enough to deter a corrupt or partial Judge from practising the same, because it's without a Penalty upon such Judge ; and barely the Transgression of Law, not made penal, can amount to no more for Punishment than a moderate Fine ; and there is no doubt but all Judges will be hereafter cautious of setting great Fines, since of late the Subject, in that Point, has been grievously oppressed, as does appear by several exorbitant Fines annulled in this present Parliament.

We also enter our Dissent to the Proviso For these Reasons:

1st, Because no Man ought, by the Laws of *England*, to be punished unheard; though the Parliament has Power in all Things possible in its Legislative Capacity, yet by all Rules of Law and Justice, no Man ought to be oppressed merely arbitrarily; and in this Case it seems to us to be so, for the other Part of the Bill reverses two illegal and unjust Judgments against *Titus Oates* in the *King's-Bench*, affirmed upon Writs of Error brought to reverse the same; and this Proviso, without hearing him in his Defence, enacts *Titus Oates* to be a Man incapable of being a Witness, which, we conceive, is more Infamy than being a Slave.

2^{dly}, The Proviso, as it is penn'd, that it may have a Shew of Justice, seems to give him the said *Titus Oates* a Liberty to clear himself, but in reality it is impossible for him so to do; for if it be meant, that the Matter for which the said *Titus Oates* was convicted of Perjury must be heard and determined in Parliament in a Legislative Way, there is no need of this Proviso; but if it be meant that the said Matters for which he was convicted of Perjury must be heard and determined by *the House of Lords* in Parliament, then (besides that it may seem to cast a Reflection upon the Proceeding of *the House of Lords* in affirming the Judgments given in the *King's-Bench* against him, without hearing him) there will be two insuperable Difficulties; one is, that by the Rules and Practice of *the House of Lords*, as a Court of Judicature, the Lords cannot call for the Matters and Evidence concerning the two Verdicts, nor can *Titus Oates* bring that before the Lords in Judicature; the other is in Case the Lords in Judicature shall call for the same, or *Titus Oates* should bring them before the Lords in Judicature, and the Lords proceed thereon to give Judgment, it is by us conceived, that it would be an original Cause, and therefore not to be proceeded upon.

3^{dly}, If *Titus Oates* cannot acquit himself of Perjury, as this Proviso seems to give him Liberty to do in *the House of Lords*, he can never bring it into any inferior Court.

4^{thly}, Last of all, we conceive, that the refusing to condemn the Verdicts brought against *Titus Oates* in the *King's-Bench* does condemn, at the same time, the Credit of the Popish Plot, which was affirmed by so many

Witnesses

Witnesses in several Parliaments, and caused so many Addresses to the King concerning it, since the first Discovery of it was upon this very Evidence, for which he was convicted (though by a pack'd corrupt Jury) by the highest Oppression, and by a former Jury in the same Case acquitted of Perjury.

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|-----------------------------|--------------------|------------------|
| <i>Bedford,</i> | <i>Vaughan,</i> | <i>Newport,</i> |
| <i>Charles de Berkeley,</i> | <i>Montague,</i> | <i>Stamford,</i> |
| <i>Maclesfield,</i> | <i>Suffex,</i> | <i>Suffolke.</i> |
| <i>Paget,</i> | <i>Cornwallis,</i> | |

Against the Amendment.

Line the 34th after (the *King's-Bench*) leave out (and the Judgments on the said Writs of Error) 37th Line, after the Word (Judgment:) add (in the Court of *King's-Bench*.)

Because it is altogether unintelligible to us, how we can reverse the Judgments in the *King's-Bench* as erroneous and illegal, and yet so industriously pass by the Judgments given in this House, that affirm those illegal and erroneous Judgments, by rejecting that Clause in the Bill brought up from *the House of Commons* that reverses that Judgment also.

Against the Proviso.

Because the Title and Intention of the Bill is to reverse the Judgments against *Titus Oates*, but this Proviso makes it firmer and heavier than ever, as much as an Act of Parliament is of more Weight than the Sentence of any judicial Court, and the Infamy of Perjury a greater Punishment than any Thing barely corporal.

Because, we think, we cannot justify to the World, or our own Consciences, such a Compliance for the Judgments of profligate Wretches, set up for Judges in *Westminster-Hall*, as that in the same Act, wherein we are forced (upon undeniable Reasons, manifest to the whole World) to annul their Judgments as illegal and erroneous, we should yet retain and fix upon him, who hath already suffered by it, undue and unheard-of Punishments, the severest Part of a confessed illegal Sentence.

Because we cannot consent that this House, which hath been always looked on as the Seat of Justice and Honour, should come under the Obloquy of a Place, where Men are condemned first, and tried afterwards,
which

which we cannot see how to avoid, if according to this Proviso, we lay Dr. *Oates* presently under the Condemnation of Perjury, until the Matters of that Perjury, shall be heard and determined hereafter.

Because, supposing him guilty, we being, by no Forms of Justice, obliged to condemn him, we think it Prudence not to give an Occasion to be thought apprehensive of his Testimony, by taking this new and unheard-of Way of depriving him of it.

The Case of any Man living, the Condemnation of Perjury ought not to be laid on *Titus Oates*, before a fair and full Hearing, for that it was so much the Labour of the Enemies of our Religion and Liberties (who in this Matter knew well what they did) to advance their Designs by invalidating his Testimony, the Credit of which was in vain attempted by solemn Trial, 'till the Irregularities of the last Reign, and the Way to corrupt Judges and Juries to that Purpose; we therefore fear, we may be accused of out-doing the whipping Precedents of *Westminster-Hall*, in consenting to condemn without Hearing or Trial.

Because we cannot consent, that this Hardship be put on his Majesty, either to reject a Bill offered to him by both Houses, which hitherto he hath not done, or else, in a most solemn Way to lay a Man under the Condemnation of the most detestable Crime, without any Knowledge of it; an Injustice No-body can advise him to, to advance his own Interest, much less for the promoting that of his Enemies, who always did and do think themselves concerned to discredit the Opinion of the Popish Plot, to which this seems to have a great Tendency.

Because we cannot consent to fix on any one the Condemnation of Perjury, by Act of Parliament, upon bare Surmise before a Hearing, were it for no other Reason but that those who have Proofs may, by an orderly Course of Law, convict him; to condemn *Oates* of Perjury, until it shall be heard and determined in Parliament, is to condemn him for ever and unheard; for how after this can it come judicially before us, there lies no Indictment in *the House of Lords*, nor Writ of Error, when the Record is vacated; so that it is utterly impossible for *Titus Oates* to receive any Benefit by a Remedy seemingly provided for him by Act of Parliament.

Montague,

Montague,
Suffolke,

Monmouth,
Maclesfield,

Oxford,
Herbert.

Die Martis 30^o Julii, 1689.

The Earl of *Rocheſter*, and the other Lords, who were Managers of the free Conference had Yeſterday with the *House of Commons*, concerning the Amendments made by their Lordſhips to the Bill intituled, *An Act for reverſing two Judgments given in the Court of King's-Bench againſt Titus Oates, Clerk*, made Report thereof, and of ſeveral Things urged by the Commons, and Replies thereunto.

After a full Debate and Conſideration had thereof,

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|-----------|----|------|---|
| Contents | 34 | } 48 | The Queſtion was put, whether to ad- here to the Amendments made by this Houſe in the Bill intituled, <i>An Act for reverſing two Judgments given in the Court of King's-Bench, againſt Titus Oates, Clerk?</i> |
| Proxies | 14 | | |
| Not Cont. | 32 | } 38 | |
| Proxies | 6 | | |

It was reſolved in the Affirmative.

Theſe Lords following do enter their Diſſents to the aboveſaid Queſtion in the Reaſons enſuing :

1^{ſt}, Becauſe the Perſons who gave Evidence againſt *Titus Oates* were incompetent Witneſſes.

2^{dly}, Becauſe *Titus Oates's* Evidence had before been verified upon thoſe very Points in which the Perjury is assigned.

3^{dly}, Becauſe it was at a Time when neither Council nor Witneſſes could, with Safety, appear for *Titus Oates*.

4^{thly}, Becauſe it was at a Time when the whole Courſe of the Adminiſtration of the Government was corrupted.

5^{thly}, Becauſe a vaſt Sum of Money, on that Trial and other ſoul Practices, were uſed both with the Witneſſes and Jurors.

6^{thly}, Becauſe it makes it almoſt impoſſible to prove that a Verdict is corrupt, if nothing but the giving and taking of Money may paſs for Evidence ; whereas the Law has declared, that many other Things may make a Verdict corrupt.

7^{thly}, Becauſe this gives the Jury Preference in point of Juſtice above four ſucceſſive Parliaments.

8^{thly}, Becauſe it caſts an Imputation on the Verity of
the

4^{thly}, Because such evil Ministers are in a much feurer Condition than any other Offenders, it being the Interest of ill-disposed Kings to protect them from Justice, since they are so much the more useful and necessary to such Kings, by how much they have been instrumental in subverting the Government.

5^{thly}, Because the King can only pardon such Offences as are against himself, but not in case of an Appeal, nor where-ever the Wrong or Injury is to a third Person.

6^{thly}, *A Fortiori*, the King cannot pardon an Impeachment, because all the Commons of *England* have an Interest in it, and it is at their Suit.

7^{thly}, Because it is inconsistent with the Government of *England* to vest a Power any-where, that may obstruct the Publick Justice.

8^{thly}, Because such a Power of Pardoning sets the King's Prerogative above the Government, which is inconsistent with the Reason and Nature of this Constitution.

9^{thly}, Because the rejecting of the Rider, and the Vote of this House against the dispensing Power in general, don't seem to be very consistent, since the Power of Pardoning upon Impeachments is altogether as great as that of a dispensing Power.

| | | |
|---------------------|---------------------|-------------------|
| <i>Maclesfield,</i> | <i>Cornwallis,</i> | <i>Herbert,</i> |
| <i>Offulston,</i> | <i>Bathe,</i> | <i>Stamford,</i> |
| <i>Bolton,</i> | <i>J. Lovelace,</i> | <i>Granville,</i> |
| <i>Delamar,</i> | <i>R. Montague,</i> | <i>Crewe.</i> |

Die Martis 14^o Januarii, 1689.

Upon Consideration of the Report from the Committee of Privileges, the tenth Instant, - concerning the Trial of Peers :

| | | |
|-----------|----|--|
| Contents | 38 | The Question was put, That it is the |
| Not Cont. | 20 | ancient Right of the Peers of <i>England</i> |
| | | to be tried only in full Parliament for |
| | | any capital Offences ? |

It was resolved in the Affirmative.

Memorandum, That the Lords following, before the putting the abovesaid Question, desired Leave to enter their Dissents if the Question was carried in the Affirmative, and accordingly they do enter their Dissents as follow:

1st, Because the Statute of 15 *Edw. III.* which first enabled

enabled the Trial of Peers to be only in Parliament, is repealed by the Statute of 17 *Edw.* III. as contrary to the Laws and Usage of the Realm, as well as the Rights and Prerogatives of the Crown.

2dly, As the Statutes of 17 *Edw.* III. has declared the Law and Usage of the Realm before the Statute of 15 *Edw.* III. so the Practice has been accordingly ever since, insomuch that from that Day to this, no Peer indicted for a capital Offence has ever claimed a Privilege of being tried only in Parliament; and tho' very many Peers have been tried and attainted out of Parliament, yet no Writ of Error to reverse such Attainder for that Reason has ever been demanded.

3dly, Because the Consequence of this Assertion would be, that the Heirs of all such as ever were attainted out of Parliament might claim to be Peers of this Realm, the Attainder of their Ancestors being void, because the Sentence against them was given by a Court that had no Jurisdiction; and also for the same Reason, all Acquittals of any Peers would be void too, and the Peers may be brought again into Jeopardy of their Lives.

4thly, The frequent Attempts to obtain an Act of Parliament to enact, That no Peer shall be tried out of Parliament for capital Offences, is an Evidence, that, without such a Law, a Peer may be tried out of Parliament, and no Vote of either House of Parliament can change the Law.

5thly, Because this Vote takes from the Subject the Right of an Appeal of Felony, in which a Peer ought to be tried by a Jury of Commoners, and not by his Peers.

6thly, Because it deprives the Peers of the Benefit of the *Habeas Corpus* Act, for if a Peer cannot be tried for a capital Offence but only in Parliament, and may be committed to Prison for such Offence, he must of Necessity remain there till the next Parliament, contrary to the said Act, which no Resolution of the *House of Peers* can or ought to alter at the Price of their Liberty.

7thly, This Vote, that the Peers must be tried only in full Parliament, seems to imply, that the Commons are necessary Parties to the Trial of a Peer, which is contrary to *Magna Charta* and the known Laws of this Realm.

Nottingham,

Sidney,

Cornwallis.

Die Jovis 23^o Januarii, 1689.

The House was put into a Committee to consider of the Bill, entituled, *An Act to restore Corporations to their ancient Rights and Privileges.*

The House was resumed, and the Earl of *Mulgrave* reported, That the Committee of the whole House have been upon the first enacting Clause in the Bill; and it is the Opinion of the Committee, that the Words [declared, and were and are illegal] should not stand in the Bill.

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|-----------|----|------|---|
| Contents | 38 | } 51 | Then this Question was put, whether to agree with the Committee in leaving out those Words? |
| Proxies | 13 | | |
| Not Cont. | 39 | } 43 | It was resolved in the Affirmative. |
| Proxies | 4 | | |

Memorandum, That the Lords following, before the putting of the abovesaid Question, desired Leave to enter their Dissents if the Question was carried in the Affirmative, and accordingly they do enter their Dissents as follow:

1st, That there hath been only two Cases cited, in all the Law Books, towards the maintaining the Surrender of Corporations, *viz.* *Dyer* 273. 282. The Opinions in these Cases are not upon Argument, the first of them, as appears by the Book, needed, and had an Act of Parliament to confirm it, being denied to be Law, in my Lord *Coke's* 3^d Report, in the Dean and Chapter of *Norwich's* Case, 44 *Eliz.* The other of them denied to be Law by the Judges of the *King's-Bench* in *Fulcher* and *Heywood's* Case in 2 *Charles I.* in *Palmer's* Reports; and by the express Authority of that Case, and the express Resolution of the Judges in that Case, a Corporation cannot, by Surrender, dissolve itself.

2^{dly}, Because that *Beda*, in the Time of *Henry V.* and the Corporation of *Newbury*, did surrender to that King, which was not allowed, but *the House of Commons* call'd upon them to send up Members, notwithstanding the said Surrender; and until they petitioned the said House, setting forth their Inability of supporting that Charge, they were not excused; but the House, allowed their Petition, and they have sent none since.

3^{dly}, The Surrenders in Debate being for the Intent and Purpose of Returning such Parliament Men whom ~~the~~ King should appoint, was for the Subversion of the
Laws

Laws and Liberties of *England*, and introducing of Popery and Arbitrary Government; and that the putting out these Words seems to be the justifying of the most horrid Action that King *James* was guilty of during his Reign; and, we humbly conceive, a denying the chiefest Grievance mentioned in King *William's* Declaration when he was Prince, and the greatest Inducement for the People's taking up Arms in Defence of their Liberties and Properties, and Protestant Religion, and the establishing this King upon the Throne.

Bolton, Bedford, Vaughan,
Herbert, Ashburnham, Stamford,
Maclesfield, Mountague, Sidney.

Die Sabbati 5^o Aprilis, 1690.

Report was made from the Committee of the whole House upon the Bill declaring the Acts in the last Parliament of full Force, and for recognizing their Majesties to be King and Queen, That the Committee had sat on the first enacting Clause in the Bill, and have made these Amendments therein, *viz.* in the 2d Sheet in the 1st Line, after (declared) they have added (adjudged) and in the 12th Line they have left out the Word (adjudged) and they desire the Concurrence of the House therein.

Then the Question was put, whether this
 Contents 30 House agrees with the Committee in
 Not Cont. 36 this Report?

It was resolved in the Negative.

Leave having been given to any Lords to enter their Dissents, if the Question was carried in the Negative, we whose Names are hereafter written do enter our Dissents for these Reasons following:

1st, Because there appears to us no Reason to doubt of the Validity of the last Parliament, the great Objection insisted upon being the Want of Writs of Summons, which we take to be fully answered by the State the Nation was in at that Time, which made that Form impossible, such Exigencies of Affairs having been always looked upon by our Ancestors (however careful of parliamentary Forms) to be a sufficient Reason to allow the Authority of Parliament, notwithstanding the same, or other

Defects in point of Form ; as the Parliament which set *Henry I.* and King *Stephen* on the Throne ; the Parliament held 28 *Edward I.* the Parliament summoned by the Prince of *Wales* 20 *Edward II.* the Parliament summoned 23 *Richard II.* the Parliament held 1 *Henry V.* and the Parliament held 28 *Henry VI.* the Acts of which Parliaments have been held for Law.

2^{dly}, Because the rejecting this Clause must necessarily disturb the Minds of the greatest Part of the Kingdom, for if those be not good Laws, all Commissioners, Assessors, Collectors and Receivers of the late Taxes are not only subject to private Actions, but to be criminally prosecuted for one of the highest Offences against the Constitution of the *English* Government, viz. the levying Money on the Subject without lawful Authority ; all Persons who have lent Money, upon the Credit of those Laws, will be in dread of their Security, and impatient to get in their Money ; all Persons concerned in levying the present Taxes will be fearful to proceed ; all Persons who have accepted any Offices or Employments Ecclesiastical, Civil or Military, will be under the Apprehension of having incurred all the terrible Forfeitures and Disabilities of the Act of 25 *Charles II.* cap. 2. and all who have any way concurred to the Condemnation or Execution of any Person upon any Act of the late Parliament, will think themselves in Danger of being called to an Account for Murder.

3^{dly}, Because to leave a Doubt touching the Validity of the last Parliament, is to shake all the Judgments and Decrees given in *the House of Peers*, or in *Westminster-Hall*, during this Reign ; and to bring a Question upon the whole Course of judicial Proceedings.

4^{thly}, Because if the Authority of the last Parliament be not put out of the Question, the Authority of the present Parliament can never be defended, for the Statute of 5 *Elix.* cap. 1. makes the Election of every Member of *the House of Commons* absolutely void, if he enter into the House without taking the Oath of Supremacy, which no one Person having done, there is an End of *this House of Commons*: And by the Statute made 30 *Car. II.* if any Peer or Member of *the House of Commons* presume to sit and vote without first taking the Oaths of Allegiance and Supremacy, before the Speaker of

of the respective Houses, he does not only forfeit Five Hundred Pounds, and become as a Popish Recusant, and disabled to take a Legacy, to hold any Office or Place of Trust, to prosecute any Suit, to be a Guardian, Executor or Administrator, but is made for ever incapable to sit and vote in either House of Parliament; and consequently this can be no Parliament, nor any who have sat in either House be capable of sitting in Parliament hereafter.

5thly, Because to leave room to doubt of the Authority of the last Parliament, is to shake the Succession of the Crown established by it, and the Credit and Authority of all Treaties made with foreign Princes and States by King *William*, as the undoubted King of these Realms; so that if the last was no Parliament, and their Acts no Laws, this is our Case: The Nation is engaged in a War without the Consent of Parliament, the old Oaths of Supremacy and Allegiance remain in Force, and the Nation forced, under Colour of Law, to swear Fidelity to King *William*, though they can never act as a lawful Parliament without taking the Oaths of Allegiance to King *James*: All Judgments and Decrees in the House of Lords, during the late Parliament, are of no Force; great Sums of Money have been levied, without Consent of Parliament, and Men have been put to death, not only without, but against Law; which is the worst Sort of Murder: Lastly, the King upon the Throne, the Peerage of *England*, and the Commons freely elected by the People, have been Parties to all this: The Peers and Commons now assembled are under a perpetual Disability, and the Nation is involved in endless Doubts and Confusions, without any legal Settlement or Possibility to arrive at it, unless a Parliament be summoned by King *James's* Writ, and the Oaths of Allegiance taken to him.

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| <i>Boulton,</i> | <i>Bedford,</i> | <i>Menmouth,</i> |
| <i>Maclesfield,</i> | <i>Herbert,</i> | <i>Delamer,</i> |
| <i>Stamford,</i> | <i>Suffolke,</i> | <i>Oxford.</i> |
| <i>Newport,</i> | | |

Die Martis 8^o Aprilis, 1690.

Hodie 3^a vice lecta est Billa, An Act for recognizing the King and Queen, and for avoiding all Questions touching the Acts made in the Parliament assembled at Westminster the 13th Day of February, 1688. The

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Before the Question was put, several Lords desired Leave to enter their Dissents, if the Question was carried in the Affirmative.

Dissentient'

1st, Because, we conceive, that saying, (It is enacted by the Authority of this present Parliament, that all and singular the Acts made in the last Parliament were Laws) is neither good *English* nor good Sense.

2^{dly}, If it were good Sense to enact for the Time past, it must be understood, on this Subject, to be the declaring of Laws to be good which were passed in a Parliament not called by Writ in due Form of Law, which is destructive of the Legal Constitution of this Monarchy, and may be of evil and pernicious Consequence to our present Government under this King and Queen.

| | | |
|----------------------|-----------------------|--------------------|
| <i>Somerset,</i> | <i>Huntingdon,</i> | <i>Scarsdale,</i> |
| <i>Rocheſter,</i> | <i>Abington,</i> | <i>Weymouth,</i> |
| <i>J. Jermyn,</i> | <i>Tho. Menev',</i> | <i>Dartmouth,</i> |
| <i>Westmoreland,</i> | <i>Feverſham,</i> | <i>Nottingham,</i> |
| <i>H. London,</i> | <i>P. Wincheſter,</i> | <i>Wigorn'.</i> |
| <i>W. Landaffe,</i> | <i>W. Aſaph,</i> | |

The foregoing Reasons were ordered to be expunged, but the above may be depended upon as a genuine Copy.

Die Jovis 10^o Aprilis, 1690.

The Reasons in the Protestation made the 8th Instant against some Words in the Bill for recognizing King *William* and Queen *Mary* being read, were, upon the Question, severally ordered to be expunged out of the Journal.

Leave having been asked and given for entering Dissents, if the Questions were carried in the Affirmative:

Dissentient'

Whereas the Questions for expunging the Reasons of our Protestation *April* the 8th, were carried in the Affirmative; and whereas these Reasons were only against some Words in one Clause in the Bill entitled, *An Act for recognizing King William and Queen Mary, and for avoiding all Questions touching the Acts made in the Parliament assembled at Westminster the 13th Day of February*

bruary 1688, which enacted, that the Acts of the late Parliament were Laws and Statutes of this Realm :

And Leave being given to enter our Dissents to those Reasons, we do so accordingly for these Reasons :

1st, Because it is the Privilege of the Peers to enter their Dissent, and it has been the ancient Practice to enter also the Reasons of such Dissent, of which the Lords, that so protest are the most proper Judges, as well knowing what Arguments perswaded them to be of that Opinion ; and no Reasons can be more proper than such as they conceive are founded upon Matter of Fact and the Law of the Land.

2^{dly}, Because there is no Precedent of expunging the Reasons of any Protestation.

3^{dly}, Because the Protestation was not against the whole Bill, but some particular Words of it ; but by expunging the Reasons of that Protestation it appears that we have protested against the whole Bill, which is contrary to our Sense and Intentions.

| | | |
|--------------|----------------|-----------|
| Nottingham, | Ed. Wigorn', | Chandos, |
| J. Jermyn, | P. Winchester, | Abingdon, |
| H. London, | Hum. Bangor, | W. Asaph. |
| Tho. Menev', | Westmoreland, | |

Die Martis 13^o Maii, 1690.

Report was made from the Committee of the whole House upon the Bill for reversing the Judgment in a *Quo Warranto* against the City of London, and for restoring the City to its ancient Rights and Privileges, That the Committee had thought fit (upon the Council desiring it) to allow further Time for the said City to be heard by their Council.

| | | | |
|-----------|----|------|--|
| Contents | 42 | } 33 | And after Debate, the Question was put, whether to agree with the Committee in allowing them longer Time ? |
| Proxies | 2 | | |
| Not Cont. | 40 | } 47 | |
| Proxies | 7 | | |

It was resolved in the Negative,

Leave having been given to any Lords to dissent, if the Question was carried in the Negative, we whose Names are hereafter written do protest to the said Question in the Reasons following :

1st, Because it seems very hard, that a further Time of Preparation should not be allowed in a Case of the highest

highest Importance, to which the City, by their whole Representative Body, had desired to be heard, especially several Lords having informed the House on their Behalf, that the Time granted them was not sufficient to instruct their Council, who, at the Bar, did also desire a further Day to be able to speak to such important Points, declaring themselves not sufficiently prepared, having their Instructions but late the Night before.

2dly, Because of how much greater Moment any Thing is, so much the greater Deliberation and Advice ought to be had upon it; and this is of such high Importance, that it not only concerns the City of London, but all the Corporations in England, that are by Prescription, and, in Consequence, the Legislative of this Government.

| | | |
|------------------------|--------------------|--------------------|
| <i>Cornwallis,</i> | <i>Bolton,</i> | <i>Stamford,</i> |
| <i>Mactesfield,</i> | <i>Bedford,</i> | <i>Vaughan,</i> |
| <i>J. Bridgewater,</i> | <i>Clare,</i> | <i>Warrington,</i> |
| <i>Monmouth,</i> | <i>Carteret,</i> | <i>Ossulstone,</i> |
| <i>Bathe,</i> | <i>Herbert,</i> | <i>R. Eure,</i> |
| <i>Manchester,</i> | <i>P. Wharton,</i> | <i>Oxford,</i> |
| <i>Devonshire,</i> | <i>Newport,</i> | <i>Dorset,</i> |
| <i>Clifford;</i> | <i>Montague,</i> | <i>Granville.</i> |
| <i>J. Lovelace,</i> | <i>R. Sydney,</i> | |

Die Javis 30^o Octobris, 1690.

Hodie 3^a vice lecta est Billa, An Act concerning the Commissioners of the Admiralty.

Contents 25 The Question being put, whether this
Not. Cont. 17 Bill shall pass into a Law?

It was resolved in the Affirmative.

Leave having been given to any Lords to enter their Dissents if the Question was carried in the Affirmative, these Lords following do enter their Dissents in these Reasons:

1st, Because this Bill gives a Power to Commissioners of the Admiralty to execute a Jurisdiction which by the Act of Car. II, entitled, *An Act for establishing Articles and Orders for the Regulating and better Government of his Majesty's Navy Ships of War and Forces by Sea*, we conceive they had not; whereby the Earl of Torrington may come to be tried for his Life, for Facts committed several Months before this Power was given or desired:

We

We think it reasonable, that every Man should be tried by that Law that was known to be in Force when the Crime was committed.

2dly, It is by virtue of the said Act of 13 Car. II, that the Earl of *Torrington* was judged by this House not to have the Privilege of a Peer of this Realm for any Offences committed against the said Act; and there is no Law, as we conceive, by which the said Earl could have been debarred from enjoying the Privilege of a Peer of this Realm; which Act making no mention of Commissioners of the Admiralty, but of a Lord High Admiral only, by whose Authority alone all the Powers given by that Act are to be exercised, and without whose Consent singly, no Sentence of Death can be executed, we think it of dangerous Consequence to expound a Law of this capital Nature otherwise than the literal Words do import; and, as we conceive it without Precedent to pass even explanatory Laws, much less such as have a Retrospect in them, in Cases of Life and Death, so we think it not at all necessary to make such a Precedent at this time, there being an undoubted legal Way already established to bring this Earl to a Trial by a Lord High Admiral.

3dly, The Judges having unanimously declared, that the Law Marine was no where particularized in their Books, whereby the Power or Jurisdiction of the Lord High Admiral may be ascertained, so that the Practice is all that we know of it, we conceive it unprecedented and of dangerous Consequence, that the Jurisdiction exercised by the Lord High Admiral should, by a Law, be declared to be in the Commissioners of the Admiralty, whereby an unknown, and therefore unlimited Power, may be established in them.

| | | |
|--------------------|---------------------|------------------------|
| <i>Rivers,</i> | <i>Oxford.</i> | <i>Herbert,</i> |
| <i>Huntingdon,</i> | <i>Maclesfield,</i> | <i>Craven.</i> |
| <i>Weymouth,</i> | <i>Tho. Raffen,</i> | <i>J. Exon,</i> |
| <i>Rochester,</i> | <i>Crewe,</i> | <i>Bolton,</i> |
| <i>Stamford,</i> | <i>Bathe,</i> | <i>J. Bridgewater.</i> |
| <i>Dartmouth,</i> | <i>Granville,</i> | |

Die Jovis 30^o Octobris, 1690.

Report was made from the Committee appointed to inspect

inspect Precedents, whether Impeachments continue in *Statu quo* from Parliament to Parliament, of several Precedents brought from the Tower.

After the Consideration of which Precedents, and others mentioned in the Debate, and reading the Orders made the 19th of *March* 1678-9. and the 22d of *May* 1685, concerning Impeachments; and after long Debate thereupon and several Things moved,

The Question was put, whether *James* Earl of *Salisbury* and *Henry* Earl of *Peterborough* shall be now discharged from their Bail?

It was resolved in the Affirmative.

Leave being given to any Lords to enter their Dissents, if the Question was carried in the Affirmative, these Lords following do enter their Dissents in these Reasons:

1st, Because we conceive, it is a Question not at all relating to the real Debate before us, but urged upon us, not for the sake only of the two Lords mentioned.

2^{dly}, Because we ought to have examined Precedents of Pardons, to see how far an Impeachment was concerned, before we had adjudged the Lords discharged, or whether an Impeachment could be pardoned without particular Mention in an Act of Grace, and what Difference there is between an Act of Grace and an Act of Indemnity.

3^{dly}, Because we did not hear *the House of Commons*, who are Parties, and who, in common Justice ought to have been heard before we had passed this Vote.

Bolton, *North and Grey,* *J. Bridgewater,*
Stamford, *Granville,* *Maclesfield.*
Ratbe, *Herbert,*

Die Jovis 1^o Januarii, 1690.

Hodie 3^a vice lecta est Billa, An Act for incorporating the Proprietors of the Water-house in *York-buildings*, and for the encouraging, carrying on, and settling the said Water-works.

The Question was put, whether this Bill shall pass into a Law?

It was resolved in the Affirmative.

Dissentient

1st, Because there is, in this Act, an arbitrary Allowance

ance left to the Proprietors to exact what Fines or yearly Rents they please for serving the Inhabitants with the said Water.

2^{dly}, And that there is no Provision in the said Act, that the Proprietors shall engage for the making good the said Leases and assuring the Inhabitants they shall not want Water, nor any to apply to for Relief, in case the Inhabitants are injured for Want of Water, or by any unreasonable Exactions of the Proprietors. *Ossulstone.*

Die Martis 16^o Februarii, 1691.

After Debate on what had been offered by Council and Witnesses in relation to the Bill for dissolving the Marriage of the Duke of *Norfolk* with his Dutches.

The Question was put, whether Proxies shall be used in the Proceedings on this Bill of the Duke of *Norfolk's*?

It was resolved in the Negative.

Dissentient'

1st, Because it is an inherent Right of the Peers of *England* to be summoned to Parliament, and when they cannot attend in Person, to be represented by their Proxies; and no Vote of *the House of Lords* alone can take away that Right, which is established by the fundamental Laws of our Constitution.

2^{dly}, If that such a Vote could abolish this Right, yet it was against the Rules of Justice to make it without hearing the Persons interested in it, especially the Number being very great.

3^{dly}, If such a Vote might be made, yet it was unreasonable for those Lords, who were against Proxies, to make use of Proxies in the previous Question, which was, in Effect, to make the Lords concerned to vote against themselves.

| | | |
|----------------------|------------------------|-------------------|
| <i>Bolton,</i> | <i>Nottingham,</i> | <i>J. Rivers,</i> |
| <i>Mulgrave,</i> | <i>Westmorland,</i> | <i>Stamford,</i> |
| <i>Chesterfield,</i> | <i>Radnor,</i> | <i>Culpeper,</i> |
| <i>Lexington,</i> | <i>J. Bridgewater,</i> | <i>Sandwich,</i> |
| <i>Essex,</i> | <i>Derby,</i> | <i>Effingham,</i> |
| <i>Willoughby,</i> | <i>Berkeley, S.</i> | <i>Lucas.</i> |

Die

Die Martis 23^o Februarii, 1691.

The House went into Consideration, and proceeded on the Bill, entitled, *An Act for raising Money by a Poll payable Quarterly for one Year, for the carrying on a vigorous War against France.*

The Earl of *Mulgrave* reported from the Lords Committees appointed to consider of Expedients for the Reservation of the Privileges of this House, in reference to the Poll-Bill, some Proceedings agreed on by them therein; and after Consideration thereof,

The House was adjourned during Pleasure, and put into a Committee upon the said Bill; and after some Time spent in the said Committee,

The House was resumed, and the Lord *Gedolphin* reported, That the Committee had gone through the Bill without any Amendment, and that the Committee think fit, there should be some Entry made in the Book upon occasion of passing the last Clause in the Bill. Then,

Hodie 3^a vice lecta est Bill, entitled, *An Act for raising Money by a Poll payable Quarterly for one Year, for the carrying on a vigorous War against France.*

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent, if the Question was carried in the Affirmative, these Lords do dissent for the Reasons following:

Because the Substance of the Proviso added at the End of the Bill, for taking the Accounts of the publick Monies, hath been in a Bill by itself this present Session of Parliament, which having not passed through *the two Houses* by reason of their Disagreement upon some Amendments offered by the Lords to the said Bill, ought not by the known and constant Methods of Proceedings to be brought in again in the same Session, and consequently, we conceive, the tacking of the said Proviso to this Poll-Bill is unparliamentary, highly prejudicial to the Privileges of the Peers, and may be of dangerous Consequence to the Prerogative of the Crown.

St. Albans, Rochester, T. Ferman,
Derby, Aylesbury, Scarsdale.
Jo. Oxen,

Then

Then the Question was put, whether there
 Contents 28 shall be an Entry made in the Book
 NotCont. 18 upon Occasion of passing the last Clause
 in the said Bill ?

It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent, if the Question was carried in the Affirmative, these Lords do dissent for the Reasons following :

Because, we conceive, that an Entry on the Journal of this House, to excuse the complying at this time in a Thing so unparliamentary, as the Matter now in Question is, upon the Account of the present Necessity or Danger, how pressing or imminent soever, will be of no Force to prevent the doing the same, when the like Necessity or Danger may be pretended ; but the consenting once to such unprecedented Proceedings may always be made use of, as one Argument more for the agreeing to them for the future.

St. Albans, Rochester, T. Jermyn,
Derby, Aylesbury, Scarsdale.
Jo. Oxon',

Die Mercurii 7^o Decembris, 1692..

The House having been in a Committee of the whole House in order to the giving Advice to his Majesty, and considering the Papers brought in by the Earl of Nottingham ; and being resumed,

Contents 36 The Question was put, whether this
 NotCont. 48 House shall now send to *the House of Commons* for a Conference, and to propose to them, that a Committee of both Houses should be appointed to consider of the present State of the Nation, and what Advice to give his Majesty upon it ?

It was resolved in the Negative.

Leave having been asked and given, that some Lords might protest, if the abovesaid Question was carried in the Negative, these Lords whose Names are underwritten do enter their Protestation in the Reasons following :

1st, Because his Majesty having particularly and expressly desired the Advice of his Parliament at this time, when he so much seems to need it, no other Method
 was,

was, or, in our Opinions, could be proposed, by which *the two Houses* might so well and so speedily be brought to that Concurrence, which is necessary to render their Advice effectual.

2dly, Because it appears by some Papers already imparted to this House, that several Members of *the House of Commons* are concerned in the Matters before us, as having been so lately employed in his Majesty's Service; and we conceive it the easiest, properest and fairest Way of Communication between *the Two Houses*, to have so great and important a Business transacted and prepared in a Committee so chosen.

3dly, Because it cannot be expected, that so many Members of *the House of Commons*, from whom we shall need Information, can, in any other manner, be here present so often, tho', with the Leave of their House, as will be necessary for a sufficient Enquiry into the several Affairs now under Consideration.

4thly, Because if *the House of Commons* intend also to give Advice to his Majesty, 'tis very probable that *both Houses of Parliament* may receive such Information severally, as will be thought fit to be communicated as soon as possible; and we conceive no Way of doing that can be so proper or speedy as in a Committee of both Houses.

5thly, Because in a Time of such imminent Danger to the Nation, by reason of so many Miscarriages as are supposed generally to be committed, the closest and strictest Union of both Houses is absolutely necessary to redeem us from all that Ruin, which, we have too much Cause to fear, is coming upon us.

| | | |
|--------------------|----------------------|------------------------|
| <i>Shrewsbury,</i> | <i>Marlborough,</i> | <i>De Longueville,</i> |
| <i>Stamford,</i> | <i>Aylesbury,</i> | <i>Montague,</i> |
| <i>Monmouth,</i> | <i>Cholmondeley,</i> | <i>Bathe,</i> |
| <i>Crewe,</i> | <i>Mulgrave,</i> | <i>Maclesfield,</i> |
| <i>Torrington,</i> | <i>Cornwallis,</i> | <i>Warrington,</i> |
| <i>Granville,</i> | <i>Vaughan,</i> | <i>Fitzwalter.</i> |

Die Martis 3^o Januarii, 1692.

The Lords having been in *Westminster-Hall*, on the Trial of the Lord *Mobun*, for the Murder of Mr. *Mountford*, and heard Evidence on both Sides, and being returned into their House,

Hodie 3^a vice lecta est Billa, entitled, An Act touching free and impartial Proceedings in Parliament.

| | | | |
|-----------|----|------|--|
| Contents | 42 | } 45 | The Question was put, whether this Bill shall pass? |
| Proxies | 3 | | |
| Not Cont. | 40 | } 47 | It was resolved in the Negative. |
| Proxies | 7 | | |

Before the putting of the abovesaid Question, Leave was asked and granted for any Lords to dissent, which way soever the Question was carried; and the Lords whose Names are hereunder subscribed do dissent in the Reasons following:

1st, Because the principal Objection made to this Bill was the great Danger that might happen thereby, of the too long continuing this present Parliament, which is an ill Consequence that we can no ways apprehend, since we hope and humbly conceive, His Majesty will never be capable of taking any Advice of that Kind, so plainly destructive to the Subjects just Rights of Election to frequent Parliaments, and so many ways inconsistent with the Good of this Nation.

2^{dly}, Because we are not only very sensible of the just Occasion given for such an Act (though we are loth to enlarge upon so tender a Subject) but have good Reason to believe *the House of Commons* would not have begun and passed a Bill of this Nature, where the Members of that House are so particularly concerned, without having been fully satisfied in the Reasons for it, and plainly convinced of that great Need the People of *England* are in, at this time, of so just and wise a Provision.

| | | |
|------------------------|---------------------|----------------------|
| <i>Warrington,</i> | <i>Cumberland,</i> | <i>Mulgrave,</i> |
| <i>Thanet,</i> | <i>Rivers,</i> | <i>Marlborough,</i> |
| <i>De Longueville,</i> | <i>Vaughan,</i> | <i>Cholmondeley,</i> |
| <i>Weymouth,</i> | <i>Sandwich,</i> | <i>Carnarvon,</i> |
| <i>Montague,</i> | <i>Clifforde,</i> | <i>Aylesbury,</i> |
| <i>Denbigh,</i> | <i>Stamford,</i> | <i>Ashburnham.</i> |
| <i>Fitzwalter,</i> | <i>J. Arundell,</i> | |

Die Martis 31^o Januarii, 1692,

| | | |
|-----------|----|---|
| Contents | 30 | The Question was put, whether the House shall go on? |
| Not Cont. | 50 | |
| | | It was resolved in the Negative. |

Dissentient'

Because it may be of dangerous Consequence in Cases of Blood.

| | | |
|------------------------|---------------------|------------------------|
| <i>Somerset,</i> | <i>Pembroke,</i> | <i>Huntingdon,</i> |
| <i>Dorset,</i> | <i>Norfolke,</i> | <i>Halifax,</i> |
| <i>Devonshire,</i> | <i>Bedford,</i> | <i>J. Bridgewater,</i> |
| <i>Scarborough,</i> | <i>Shrewsbury,</i> | <i>Kent,</i> |
| <i>Mulgrave,</i> | <i>Westmorland,</i> | <i>Leawarr,</i> |
| <i>Cornwallis,</i> | <i>Arundell,</i> | <i>Radnor,</i> |
| <i>Northumberland,</i> | <i>Monmouth,</i> | |

Die Mercurii 8^o Martii, 1692.

Hodie 3^a vice lecta est Billa, entitl'd, *An Act for reviving, continuing and explaining several Laws therein mention'd.*

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient^r

Because the following Provisoos were not admitted. (Provided always, That no Search shall be at any time made in the House or Houses of any of the Peers of this Realm, by virtue of the said Act of Printing, without Oath being first made, any thing herein to the contrary thereof in any wise notwithstanding.)

(Provided always, and be it enacted by the Authority aforesaid, That if the Names of the Printer and the Author of any Book be affixed to, and printed in the same Book, that then, and in such Case, it shall not be necessary to take out a Licence for the Printing the said Book.)

And we conceive, that the Benefit which may accrue to the Publick by the Continuance of the several Acts mentioned in the Bill, will not countervail the Prejudice there may be in many respects by rejecting the aforesaid Clauses, which we offered as Amendments to the Bill for preventing Abuses in punishing seditious, treasonable and malicious Books and Pamphlets, and for regulating of Printing and Printing-Presses.

Because it subjects all Learning and true Information to the arbitrary Will and Pleasure of a mercenary, and, perhaps, ignorant ~~Licensor~~, ~~destroys the Properties of~~ Authors in their Copies, and sets up many Monopolies.

| | | |
|--------------------|---------------------|---------------------|
| <i>Mulgrave,</i> | <i>Maclesfield,</i> | <i>Lincolne,</i> |
| <i>Hunsdon,</i> | <i>Granville,</i> | <i>Stamford,</i> |
| <i>Halifax,</i> | <i>Vaughan,</i> | <i>Marlborough.</i> |
| <i>Ossulstone,</i> | <i>Shrewsbury,</i> | |

Die

Die Jovis 23^o Novembris, 1693.

It is resolved, and this Day ordered by the Lords Spiritual and Temporal in Parliament assembled, that this House will not receive any Petition for protecting their Majesties Servants, and that this Order be added to the standing Orders of this House.

Against which Order, the Lords whose Names are subscribed do enter their Protestations for these Reasons :

1st, That it hath been usual in all Times to relieve the King's Servants in these Cases, upon their Petition in Parliament.

2^{dly}, That this Order seemed to us to be grounded upon a Mistake, which was, That the King's Servants in Ordinary were relievable otherways, that is, the Servants above Stairs by the Lord Chamberlain, and those below by the Lord Steward and the Board of *Greencloth*, which is found impracticable, for neither the Lord Chamberlain's Order, nor the Order of the Board of *Greencloth* can discharge any of the King's Servants that are imprisoned for Debt ; all that they have ever done, or can do, is to commit those who arrest them to safe Custody, who may redeem themselves (and have often done) by *Habeas Corpus* the next Day, and consequently the Servant left without Remedy.

3^{dly}, Whereas it hath been suggested, That at least four hundred of the King's Servants may claim Freedom from Arrests, and consequently this House be too much burthened with their Petitions ; that Number seems to comprehend the Extraordinary Servants also, who claim no Privilege, and are declared by an Order of Council, made in King *Charles* the Second's Time, to be incapable of Protection from their just Debts : Whereas the Servants in Waiting are a far less Number, and Experience hath shewed us, that this House hath not been troubled with above two or three of their Petitions, at most, in any one Session.

4^{thly}, It seems unreasonable to us, that the King (who is the Head of the Parliament) should have his Servants in Ordinary taken from him, more than is suffered to any Member of either House of Parliament.

5^{thly}, This Order, which in general Terms declares,
that

that this House will not receive any Petition for protecting the King's Servants, seems to us to bear hard upon their Majesties Privileges, no Reason being given for the same.

| | | |
|------------------------------|---------------------|----------------------|
| <i>Norfolke and Marshal,</i> | <i>Newport,</i> | <i>Westmoreland,</i> |
| <i>Jo. Oxen',</i> | <i>J. Norwiche,</i> | <i>Maclesfield,</i> |
| <i>P. Winton',</i> | <i>Ed. Wigorn',</i> | <i>Sy. Eliens'.</i> |
| <i>Tho. Lincolne.</i> | | |

The last Reason was directed, by Order of the 30th of *November*, to be expunged, but the above may be depended upon as a genuine Copy.

Die Veneris 22o Decembris, 1693.

The House resumed the adjourned Debate, upon the Petition of the Dutcheſs of *Grafton* and *William Bridgeman*, Esq; complaining of the Judges of the *King's-Bench*, and,

The Question being put, whether the said Dutcheſs of *Grafton* and *William Bridgeman* shall have leave to withdraw their Petition ?

It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent to the abovesaid Question, the Lords whose Names are underwritten do dissent as follows :

Because we conceived it proper, at the Time that Leave was granted to withdraw the Petition, that an Order should be given to have a further Information brought before this House, of the Proceedings of the *King's-Bench*, in the Case of *William Bridgeman* and *Rowland Holt*, and others, in order to have directed a criminal Prosecution against the said Judges, in Case the House should have thought fit to proceed so far against them.

| | | |
|--------------------|---------------------|---------------------|
| <i>Somerset,</i> | <i>Marlborough,</i> | <i>Maynard,</i> |
| <i>Scarsdale,</i> | <i>Aylesbury,</i> | <i>Tho. Menew',</i> |
| <i>Rocheſter,</i> | <i>Weymouth,</i> | <i>Aſburnham.</i> |
| <i>Wincheſter,</i> | <i>Maclesfield,</i> | |

Die Veneris 5o Januarii, 1693.

Upon a Report of a Conference with the Commons, that they agree to all the Amendments made by the Lords to the Bill touching free and impartial Proceedings in Parliament, except the last Clause,

The

The Question was put, whether this
 Contents 36 Houſe ſhall agree with *the Houſe of*
 Not Cont. 25 *Commons*?

It was reſolved in the Affirmative?

Leave having been aſked and given for any Lord to diſſent to the aboveſaid Queſtion, the Lords whoſe Names are underwritten do diſſent as followeth:

Because that an Act complains of Corruption in former Parliaments, and deſigns to provide againſt it for the future, ought not, in our Opinion, to contain a Clause to allow any one Member of *the Houſe of Commons* to be excepted from the general Rules preſcribed to hinder all the Members from taking Employments, eſpecially the Speaker of that Houſe, who, if he can be capable of being corrupted, may, by himſelf alone, do much more Miſchief than a great many of the Members can do together; and this Clause allowing the Speaker of *the Houſe of Commons* to be capable of ſuch Preferments, Advantages and Employments, which all other Members are debarred from, by virtue of this Act, ſeems to eſtabliſh the Poſſibility of Corruption in him by a Law, which we conceive, would be ſcandalous for the preſent, and of very dangerous Conſequence in Times to come,

Rochester, H. London.

Die Mercurii 10^o Januarii, 1693.

After Conſideration of the Expedition at Sea, the laſt Summer, and hearing the Admirals, and reading the Letters and Orders in relation to that Buſineſs,

It was reſolved upon the Queſtion, that the Admirals who commanded the Fleet laſt Summer have done well in the Execution of the Orders they received.

Leave having been aſked and given for any Lords to diſſent from the aboveſaid Reſolution, the Lords whoſe Names are hereafter ſubſcribed diſſent in the following Reaſons:

1^{ſt}, Whereas by an Order of the Admiralty, bearing Date the 19th of *May* laſt, the Admirals were to direct Sir *George Rook*, that after their parting with him, he ſhould ſeer ſuch a Courſe for his Paſſage to *Cadix*, as ſhould be thought moſt ſafe by a Council of War, with relation as well to the *Breſt Fleet*, if gone out to Sea, as
 the

the *Tboulon* Squadron: It does not appear to us, that there has been any Council of War from the two and twentieth of *May* to the fourth of *June*, which was the Day the Signals were given for their parting from the *Streights* Fleet; which last Council of War was not called till after the Signals for parting were given, and occasioned by the Accident of the *Turkey* Fleet's being becalmed.

2dly, That though it does appear by the Result of the Council of War, of the fourth of *June*, that they had no Intelligence where the Enemy was, yet notwithstanding we do not find in that Council, it was so much as proposed, how to get Intelligence where the *Brest* Fleet was, pursuant to the Order of the Admiralty of the Nineteenth.

3dly, We conceive it to be the Duty of an Admiral or General to use his utmost Endeavours to discover the Motions of an Enemy, without an Order from his Superiors, and much more when he has one.

4thly, Their not sending one or more good Sailors to find out, if the *French* Fleet were sailed from *Brest*, as also what Course they steered, so as to give Intelligence to our main Fleet, at a Station appointed, before they parted with Sir *George Rooke*, was, as we conceive, the chief Cause of the Misfortune that happened to the *Turkey* Fleet.

5thly, It appears by the Admiral's own Letters to the Admiralty of the fourteenth of *July* and eighteenth of *September* last, that at a Council of War held on the two and twentieth Day of *May*, they were of Opinion, that that Part of the Admiralty's Order of the Nineteenth, which related to the Course Sir *George Rooke* was to steer, was unreasonable and impracticable, yet they did not send up to have it explained, though the Fleet did not sail till the Thirtieth: This looks as if they rather design'd an artificial Excuse for doing nothing, than the Discharge of the Trust reposed in them.

6thly, That Sir *George Rooke's* Narrative, which might have given a farther Light to the Inquiry into the Admirals Conduct last Summer, was not allowed to be read.

7thly, This Vote seems to approve of the Behaviour of the Admirals in the last Summer's Expedition, which differs

may stop any Protection of the King's, in case he
think fit to proceed further in that Affair.

| | | |
|--------------------------|--------------------|-----------------------|
| <i>W.</i> | <i>Oxford,</i> | <i>J. Bridgwater,</i> |
| <i>Lord of Berkeley,</i> | <i>Offulstone,</i> | <i>Drumshire,</i> |
| <i>Terde,</i> | <i>Clifforde,</i> | <i>Stamford.</i> |

Die Mercurii 14^o Martii, 1693.

all Lords who had enter'd Protections being heard,
they were struck out, and the following Order
viz.

ordered and resolved, upon the Question, by the
spiritual and Temporal in Parliament assembled,
Lord shall enter any written Protection in the Book
of Protections, until after he shall have personally attend-
ed the House, in the same Session of Parliament.

There was given for any Lord to dissent to the above-
order.

At the taking off any Part of the undoubted Privi-
lege which every Peer of *England* enjoys by his Birth-
right by a Vote in a pretty thin House, especially when
of this House moved on the Behalf of the absent

that a Day might be appointed for the Debate of
the Matter in which they were so much concerned, seems
Manner of it to make too light of what this House
to esteem so sacred as the Privileges of the Peerage
land

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient'

Against that Part of the Bill which relates to the incorporating the Governor and Company of the Bank of England, and the Clauses that concern the same.

| | | |
|-------------------|----------------------|--------------------|
| <i>Aylesbury,</i> | <i>Winchelsea,</i> | <i>Montague,</i> |
| <i>Rochester,</i> | <i>Sandwich,</i> | <i>Nottingham.</i> |
| <i>Essex,</i> | <i>Tho. Roffen',</i> | |

Die Martis 18^o Decembris, 1694.

Hodie 3^a vice lecta est Billa, entitled, An Act for the frequent Meeting and Calling of Parliaments.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Leave being asked and given for any Lord to dissent, we do dissent from this Vote, because it tendeth to the Continuance of this present Parliament longer than, as we apprehend, is agreeable to the Constitution of *England*; besides the ill Consequences which, in many respects, may attend it.

| | | |
|--------------------|-------------------|-----------------|
| <i>Devonshire,</i> | <i>Aylesbury,</i> | <i>Halifax.</i> |
| <i>Weymouth.</i> | | |

Die Sabbati 19^o Januarii, 1694.

The Amendments made by the Committee to the Bill, entitled, *An Act for making wilful and corrupt Perjury, in certain Cases, to be Felony*, were read the second time and agreed to.

And after Debate,

The Question was put, whether this Bill shall be engrossed?

It was resolved in the Negative.

These Lords following do dissent for this Reason, Because it has appeared by too many Instances, not only in former Times, but also very lately, how great need there is of such a Bill as this, to deter Men from those pernicious Crimes of Perjury and Subornation.

| | | |
|------------------|-----------------------|--------------------|
| <i>Bolton,</i> | <i>N. Cestriens',</i> | <i>Culpeper,</i> |
| <i>Oxford,</i> | <i>Leeds, P.</i> | <i>Devonshire.</i> |
| <i>Normanby,</i> | <i>Somerset,</i> | |

Dis

Die Lune 18^o Februarii, 1694.

he House this Day resuming the farther Consideration of what remains undetermined in respect to the Proceedings and Trials in *Lancashire*; and after hearing Judges who acted in those Trials, and Debate thereupon;

he Question was put, that it is the Opinion of this House, that the Judges, who have any ways acted in Relation to the *Lancashire* Trials, have done their Duty according to Law?

It was resolved in the Affirmative.

Intient',

1st, Because, we conceive, that a Witness, who, in Court, did twice mistake the Prisoner at the Bar, first whom he was a Witness, ought not to be recommended from a Judge to a Jury, as a Witness not to be trusted against. And;

2^{dly}, Because there appeared several hard Circumstances in the Proceedings, and particularly the refusing to let the Witnesses to be examined apart, when desired by the Prisoners, which in a Constitution, where Judges ought to be of Council for the Prisoners, is to be contrary to the Intent of the Law for the Safety of the Innocent, and, that in Consideration, it is of too ill Consequence to receive Countenance in Supreme Court.

*Sandwich, Guilford, Rochester.
Nottingham,*

Die Martis 16^o Martii, 1694.

he Heralds being this Day heard at the Bar (pursuant to the Order of the 16th Instant) in relation to Decisions of Baronies by Writ;

After Debate,

This Question was put, Whether if a Person summoned to a Parliament by Writ, and sitting, die, leaving Issue two or more Daughters, who all die, one of them only leaving Issue, such Issue has a Right to demand a Summons to Parliament?

It was resolved in the Affirmative.

The Lords following do dissent for these Reasons :

1st, Because, we conceive, it is more suitable to the Methods of all Courts of Justice, and therefore particularly more proper for this supreme Court to give Judgment in particular Cases, when they are brought to be tried before them, than to make a general Rule, which possibly may not comprehend all future Accidents, and may be liable to many great Inconveniencies that cannot now be foreseen, and which, in its Nature, seems to be Matter fitter to be provided for by a Law than a Judgment.

2^{dly}, And because there were several Precedents offered to be produced, to shew that the Practice, upon several Occasions, had been directly contrary to this Rule, and because the Heralds, who, we conceive, disproved the printed Precedents, were not allowed Time to produce Precedents to shew where Baronies descending to several Daughters were extinguished, and new Creations of those Titles given to others.

3^{dly}, Because, we conceive, this general Rule now made is in Opposition to a Judgment solemnly given by this House, upon hearing Council on all Sides, in a particular Case lately referred by the King ; and is grounded on a bare Motion made by some Lords, who, we conceive, were no ways concerned in that Judgment.

4^{thly}, Because the last Rule does likewise seem to us to be repugnant to the Judgment of this House in the Case between the Earl of *Oxford* and Lord *Willoughby of Eresby*, then referred to this House by King *Charles I.* and by their Lordships thought fit to be referred to the Consideration of the Judges, as a Matter of that Importance that deserved their Assistance ; who, upon mature Deliberation, returned their Opinion to their Lordships in these Words, (*viz.*)

“ As to the Baronies of *Bulbeck*, *Sandford*, and *Baldsmere*, our Opinion is, that the same descended to
 “ the general Heirs of *John* the fourth Earl of *Oxford*,
 “ who had Issue *John* the fifth Earl of *Oxford*, and
 “ three Daughters ; one of them married to the Lord
 “ *Latimer*, another to *Winckfield*, and another to *Knightley* : Which *John* the fifth Earl of *Oxford* dying without Issue, those Baronies descended upon the said
 “ Daugh-

“ Daughters as his Sisters and Heirs, but those Dignities
 “ being entire, and not dividable, they became incapa-
 “ ble of the Same, otherwise than by Gift from the
 “ Crown, and they, in Strictness of Law reverted un-
 “ to, and were in the Disposition of King *Henry VIII.*
 “ and yet nevertheless, we find that four several -Earls
 “ of *Oxford* successively, after that Descent to three
 “ Daughters, as Heirs Males of the said Earldom, as-
 “ sumed and took upon them those Honours and Titles
 “ in their Writings, Leases and Conveyances ; and their
 “ eldest Sons have been stiled, in the Life-time of their
 “ Fathers, by the Name and Title of Lord Viscount
 “ *Bulbeck*, and so reputed to be, and the House did
 “ vote that the Baronies were in his Majesty's Disposi-
 “ tion, and, in their Report to the King, did declare,
 “ that for the Baronies, they were wholly in his Maje-
 “ sty's Hand to dispose at his owh Pleasure.”

5thly, Because, we conceive, that it is not in the
 Power of this House, either to explain or repeal an Act
 of Parliament, though a private Act, in a judicial Man-
 ner, but only in our legislative Capacity ; and there be-
 ing an Act passed in 15 *Charles II.* No. 15. for settling the
 Lands of the Earl of *Kent*, which disposes of the Barony
 of *Lucas* of *Crudwell*, and declares the King's Power to
 dispose of the Barony, when more than one Female
 Heir, to whom, or to which he pleases, or to hold in
 Suspence, or to extinguish the Same ; we cannot but
 think this Vote is in direct Opposition to that Act.

Norfolk and *Marshal*, *J. Bridgewater*, *Brooke*,
Herbert, *Rocheſter*, *Scarborough*.
Stamford, *Torrington*,

Die Jovis 18^o Aprilis, 1695.

The House this Day taking into Consideration the se-
 veral Examinations and Reports made and taken relating
 to the Convex Lights, and a Lease of Land lately made
 by the City of *London* to the Marquis of *Normanby*.

After Debate, the Question was put, whether upon the
 Examination taken in Relation to the Matter of the
 Convex Lights, while the Orphans Bill was de-
 pending in this House, or concerning a Lease of
 some Lands lately passed to the Lord Marquis of
Normanby.

Normanby, by the City of *London*, there does appear any just Cause of Censure from this House, upon the said Lord Marquis of *Normanby*?

It was resolved in the Negative.

Dissentient

Because we humbly conceive it to be an Offence of an high and extraordinary Nature, that any Peer should presume to deliver the Opinion of this House, without Doors, to Persons whose Cause has been pleaded at this Bar, so as to induce them to compound their Interest, or oblige them to unwilling Compliances, more especially in a Matter depending before us, in a Bill agreed to by the House of Commons.

Which we humbly conceive to have been plainly made out against the Marquis of *Normanby*, by the Depositions of Mr. *Hobbs*, Sir *Thomas Millington*, Mr. *Nois* and Mr. *Lilly*.

Mr. *Hobbs* having informed this House, upon Oath, that he was absent and sick, and resolved to come to no Agreement with *Hutchinson*, but that Sir *Thomas Millington* had some Time afterwards given him this Account, that the Marquis of *Normanby* came out several Times from the House of Lords, assuring him the Bill would not pass, unless an Agreement was immediately made with the said *Hutchinson*, which, with the Clamours without Doors, were the Reasons that compell'd him, and those others that signed, to agree.

Sir *Thomas Millington* having declared, upon Oath, that he was forced and compelled to sign the aforesaid Agreement, by frequent Intimations and Assurances given by the Marquis of *Normanby*, that the Bill should, or would not pass, unless he and his Partners did agree with *Hutchinson*, as likewise by the Clamours, without Doors, of those concern'd for the passing of the Orphan Bill.

Mr. *Nois* (Agent for the Orphans) likewise deposing, that he heard the Marquis of *Normanby* tell Sir *Thomas Millington*, the Bill would be lost, unless the aforesaid Agreement was concluded; both affirming that no other Member of the House of Lords, to their Knowledge, gave any such Intimation or Account.

Mr. *Lilly* also deposing, that all present were forc'd to sign a Paper (which he hoped would prove an Agreement)

ment) because they were compelled to it by the Tumults at the Doors of the *House of Lords*, being afraid of Violence from the Orphans Agents and Solicitors in Case they had not signed it.

Which irregular Proceeding of the Marquis of *Normanby*, we conceive fully proved by Witnesses of undoubted Reputation, who acted in pursuance of the Account they gave upon Oath; which are the more remarkable, because it appears that *Roman Russell*, Servant and Agent to the said Lord, had one 32d Part made over to him immediately before the Hearing in the *House of Lords*; which Share was assigned to Mr. *Moore*, by *Hutchinson* to be made over for promoting his Interest in Parliament, and was, to that Purpose (as the Writing testifies) disposed of to *Roman Russell*, which we conceive, by the Proofs valuable two thousand Pounds.

Which Share, Mr. *Moore* deposes, was given to *Roman Russell*, and *Russell* confesses to have received for no other Consideration (but having been Servant to many Lords) to solicit and apprise them of the Case; yet it appears by his own Confession he knew not the Merits of the Cause, nor could name any other Lord, whom he had applied to, but the Marquis his Master, who brought in the Petition for *Hutchinson*, *Roman Russell* having acquainted him he had a Concern with him.

We likewise protest against this Vote, in relation to the second Part of it, which concerns the Lease made by the City to the Marquis of *Normanby*.

Because we conceive it a Present avowedly given to the said Marquis, for gratifying him for Services done to the City, in the *House of Lords*, and for the Expectation of like Services for the future, and by him received as such; which we are humbly of Opinion is sufficiently proved, and in such Manner as we apprehend, is highly to the Dishonour of this House.

First, This appears by the Entries in the City Books, where it was agreed by the Committee of the City Lands, to demand an extraordinary Power of the *Common Council*, to grant a Lease under such extraordinary Conditions, as were not agreeable to their common Methods: In which Entry, the only Motive and Argument that appears in the Books is expressed in these Words, viz.

Com' Concil' tent' 24^o Die Jan. 1693.

At a Common-Council,

A Motion was made for gratifying a Person of Honour, who had been very friendly to the Interest of the City, in *the House of Lords*, and likely to continue so, with a long Term of Years in about two or three Acres of the City Ground, lying and being in *Conduit-Mead* behind *Clarendon-House*.

The Question being put, whether this Court will empower the Committee, for settling and demising the City Lands, to grant unto the said Lord an additional Term in the said Ground, at and under such Rents, Covenants and Conditions as the said Committee shall approve of?

It was carried in the Affirmative.

And referred to the Committee accordingly.

And likewise the same is again enter'd in the Books in the last Determination of the Committee for City Lands, as the only Motive to induce them to make such a Grant, in these Words, *viz.*

It being by special Order of this Honourable Court referred to us, in order to the gratifying a Person of Honour, who hath been very friendly to the Interest of the City, in *the House of Lords*, and is likely to continue so, &c. and signed by Sir Robert Clayton, and several of the Parties consenting to this Lease, who were summoned as Witnesses by the Marquis of *Normanby*.

It being further made evident (as we humbly conceive) by the Oaths of Mr. *Lane*, the City Comptroller, Mr. *Morrice*, a Member of *the House of Commons*, and Mr. *Barlow*, one of the Committee, who deposed the Arguments made use of for this Lease, in several Meetings of the Committee, were the Services done, and like to be done the City by the Marquis of *Normanby*; particular mention being made in their Depositions of his Assistance in flinging out *Gulffen's* Bill, and his helping that of the Orphans.

And we further conceive (with great Deference to this Honourable House) that the Motives and Considerations, ~~shown~~ by several of the Committee Men, who were con-
senting

; a Brick Drain ; which alledged Considerations
us of no Weight, the Marquis being under no
nt in his Lease to build such House, the Pipes for
ater being secured for seventy Years to come,
r former Lease, the Arrears having been paid, not
said Marquis, but by the Tenants under the first
when demanded.

moreover, in our humble Opinion, there is little
to doubt, but that the said Lease was given
ken as a Gratification, Mr. *Lane* giving it
on Oath, from the Marquis of *Normanby*'s own
, that he look'd upon the Lease as a Present to
om the City for his Kindnesses and Services, and
ey were Suiters to him, not he to them.

lly, We are the rather convinc'd of it, because the
tions of Mr. *Lane*, Mr. *Morrice* and Mr. *Barlow*,
table to the Entries in the City Books, which most
Evidence summoned for the Marquis of *Norman-*
e their Hands to, where no mention is made of
ther Matters sworn by them as Considerations in-
to grant such Lease.

aced by these Parts of the Evidence recited (having
l the Whole upon our Book) that Nothing may be
led which may any ways tend to the Justification
Noble Lord concerned, and for the Reasons a-

Die Jovis 9^o Januarii, 1695.

The House proceeded upon Consideration of the Amendments made to the Bill for regulating of the Coinage, to which the Commons disagreed.

A Clause agreed by the Lords, to be added to the said Bill, that the Deficiencies of clipped or diminished Money may be ascertained and known, in order to the making them good at the publick Charge, Was read,

And after Debate thereon,

The Question was put, whether to insist upon the said Clause ?

It was resolved in the Negative.

Dissentient'

Because, we conceive, that tho' in the Bill for new regulating the Coin of this Kingdom, the Commons have taken Care to make good the Deficiencies of such clipped Monies only as were to be paid to the King on the Account of his Majesty's Revenues or Taxes, it was agreeable to common Equity and Honesty, that Provision should be made to supply the Deficiencies of all other clipped Monies whatsoever, that were to pass in Payments among the Subjects of this Kingdom ; and therefore we could not consent to the leaving out this Clause that had been added to the Bill by the Lords, which had so impartially taken Care of the Benefit and Advantage of the Subject in general, so much for the Honour and Justice of the House of Peers.

*Rochester, Kingston, H. London,
Marlborough, Clifford,*

Another Clause disagreed to by the Commons, That after the second of February, 1695, until the End of the next Session, it should be lawful to export any coined Money, without paying any Customs or Duties for the same, making due Entries thereof, as for other Merchandize, was read. And,

The Question being put whether to insist upon the said Clause ?

It was resolved in the Negative.

Dissentient'

Because we conceive it inconsistent with the Rules of common Prudence, when the Bill for new regulating the Coin

Coin of this Kingdom provides, That all the clipped Money should be recoined up to the old Standard of the Mint, there should not be a Liberty granted by Law to export the Coin of this Kingdom, whilst the Occasion lasts of supporting so great an Expence for the Armies abroad ; and so long as the Exportation of Bullion is permitted, and that of Coin prohibited, it seems to us undeniable, that the Coin must be melted down again into Bullion, which, we conceive, will be more prejudicial to the Nation, and not so easily to be drawn back by a Ballance of Trade, as if that Wealth were preserved in the Coin of this Kingdom.

Rochester, Marlborough.

Die Veneris 17^o Januarii, 1695.

The House took into Consideration the Petition of *Sir Richard Verney, Knt.* presented to his Majesty, praying a Writ of Summons to Parliament, and his Majesty's Reference thereupon to this House.

And after some Time spent in Debate,

The Question was put, whether the Petitioner, *Sir Richard Verney*, shall be heard at the Bar by his Council upon his Petition ?

Contents 47
Not Cont. 20

It was resolved in the Affirmative.

Leave having been asked and given to any Lord to protest, if the Question should be carried in the Affirmative, we whose Names are underwritten do protest, for the Reasons following :

1st, Because, as it seems to us, the Petitioner's Case has been already heard and adjudged in this House, upon his former Petition, whereby he claimed to have a Writ of Summons to Parliament, from the same Ancestor, by the same Pedigree, and under the same Writ of Summons, by which he makes his Claim in this Petition.

2^{dly}, Because the Judgment given by this House, upon *Sir Richard Verney's* former Petition, was not, that he had no Right to a Writ of Summons, by the Name of *Lord Broke*, but generally, that he had no Right to a Writ of Summons upon his Case, as stated in his Petition.

3^{dly}, Because, we conceive, it may tend infinitely to

prejudice the Judicature of this House, and to weaken the Security that all Subjects have, by the Judgments of this great Court, if the Lords shall permit Judgments once given, in so solemn a Manner, to be review'd.

| | | |
|------------------------|---------------------|--------------------|
| <i>Somerset,</i> | <i>Bolton,</i> | <i>Manchester,</i> |
| <i>Bradford,</i> | <i>Calpeper,</i> | <i>Stamford,</i> |
| <i>J. Bridgewater,</i> | <i>Devonshire,</i> | <i>Suffolke.</i> |
| <i>Alzmouth,</i> | <i>Maclesfield,</i> | |

Die Veneris 24^o Januarii, 1695.

Hodie 3^a vice lecta est Billa, entitled, An Act to prevent false and double Returns of Members to serve in Parliament.

Contents 27 The Question was put, whether this
Not Cont. 20 Bill shall pass?

It was resolved in the Affirmative.

Leave having been asked and given to any Lords to protest, if the Question should be carried in the Affirmative, we whose Names are underwritten do protest, for the Reasons following:

By Reason of a Clause in this Bill, which enacts in these Words following,

“ In Case that any Person or Persons shall return any
“ Member to serve in Parliament for any County, Ci-
“ ty, Borough, Cinque-Port or Place, contrary to the
“ last Determination in *the House of Commons*, of the
“ Right of Election in such County, City, Borough,
“ Cinque-Port or Place, that such Return so made,
“ shall, and is hereby adjudged to be a false Return.”

To which we cannot agree, because, we conceive, that the confirming, by Act of Parliament, the Proceedings in another Place, which have never been examined here, is derogatory to the Dignity, and inconsistent with the Justice of *the House of Peers*. And,

Because the enacting, that the Determination of *the House of Commons*, in the Case of Returns of Members to sit in that House, shall be made the Rule for the future, seems to us, to erect a Court of Judicature there, which, by the Constitution of the Government, and the constant Practice of all Ages to this Day, hath never yet been allowed in *the House of Commons*, and may contribute to the introducing of evil Precedents, and be of dangerous Consequence hereafter.

Roche-

*Rocheſter,
Granville,*

*Bathe,
Jeffreys,*

*R. Ferrers,
Tho. Menteven.*

Die Jovis 13^o Februarii, 1695.

Council were this Day heard upon the Petition of Sir *Richard Verney*, Knt. praying a Writ of Summons to Parliament, as also his Majesty's Council.

And Consideration and Debate had thereof.

The Question was put, whether by what hath been made appear to this House, the Petitioner, Sir *Richard Verney*, hath a Right to a Writ of Summons to Parliament, by the Name and Title of *Willoughby de Broke*?

It was resolved in the Affirmative.

To which the Lords, whose Names are underwritten, do dissent, for the Reasons following:

1st, Because it is apparent, by the ancient Journals of *the Lords House*, that Sir *Robert Willoughby*, the Petitioner's Ancestor, and his Son and Grandson, sat in the House by the Name of Lords *Broke*, and never by Lord *Willoughby de Broke*.

2^{dly}, We conceive, no Lord, whose Ancestors were called to *the Lords House*, by Writ of Summons, can claim a Writ by Descent from those Ancestors, to sit in the House by any other Name than those Ancestors sat by.

3^{dly}, The House having, in the last Parliament, adjudged, that the Petitioner had no Right to a Writ of Summons to Parliament, when he petitioned to be summoned as Lord *Broke*, we conceive he can sit by no Title at all.

*J. Bridgewater, Stamford, Bradford,
Somerset, Culpeper,*

Die Veneris 6^o Martii, 1695.

Hodie 3^a vice lecta est Billa, entitled, An Act for continuing several Duties granted by former Acts upon Wine and Vinegar, and upon Tobacco and *East India* Goods, and other Merchandize imported, for carrying on the War against *France*.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient.

Dissent.

I dissent to the said Bill, by Reason of a Clause therein, concerning the Price of Guineas, which, I conceive, is prejudicial to the Privileges of this House, and the Trade of the Country.

Abington.

Die Martis 7^o Aprilis, 1696.

Report was made from the Committee of the whole House, upon the Bill to restrain the Wearing of all wrought Silks or stained Callicoes imported, of the Manufacture of *Persia* and the *East-Indies*, that they had heard Council for and against the Bill.

Ordered, That the House be put into a Committee again upon the said Bill on *Thursday* next.

The Question was put, whether Council and Witnesses shall be heard To-morrow, upon the Subject-matter of this Bill?

It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent, if the Question was carried in the Affirmative, we whose Names are underwritten do dissent, for the Reasons following:

1st, Because it was never known, that where a Bill was once referr'd to a Committee of the whole House, the House did hear Council and examine Witnesses to any Part of the Bill so committed, or when that Committee was still subsisting.

2^{dly}, Because, we conceive, such Proceedings may occasion severe Reflections upon the Honour of this House, and may be of fatal Consequence, by inverting the Laws and Customs of Parliament, upon which our Constitution depends.

Bolton,

Stamford.

Die Mercurii 23^o Decembris, 1696.

Hodie 3^a vice lecta est Billa, entitled, An Act to at-taint Sir *John Fenwick*, Bart. of High Treason.

Contents 68 The Question was put, whether this
Not Cont. 61 Bill shall pass?

It was resolved in the Affirmative.

Leave being asked and given for any Lord to dissent,

if the Question was carried in the Affirmative, we whose Names are underwritten do dissent, for the Reasons following:

Because Bills of Attainder against Persons in Prison, and who are therefore liable to be tried by Law, are of dangerous Consequence to the Lives of the Subjects, and, as we conceive, may tend to the Subversion of the Laws of this Kingdom.

Because the Evidence of Grand Jurymen, of what was sworn before them against Sir *John Fenwick*, as also the Evidence of the Petty Jurymen, of what was sworn at the Trial of other Men, were admitted here; both which are against the Rules of Law, besides that they disagreed in their Testimony.

Because the Information of *Goodman* in Writing was received, which is not by Law to be admitted; and the Prisoner for Want of his appearing Face to Face, as is required by Law, could not have the Advantage of cross-examining him.

And it did not appear by any Evidence, that Sir *John Fenwick*, or any other Person employed by him, had any Way perswaded *Goodman* to withdraw himself; and it would be of very dangerous Consequence, that any Person so accused should be condemned; for by this Means a Witness, who shall be found insufficient to convict a Man shall have more Power to hurt him by his Absence, than he could have if he were produced *viva voce* against him.

And if *Goodman* had appeared against him, yet he was so infamous in the whole Course of his Life, and particularly for the most horrid Blasphemy which was proved against him, that no Evidence for him could or ought to have any Credit, especially in the Case of Blood.

So that in this Case, there was but one Witness, *viz. Porter*, and he, as we conceive, a very doubtful one.

Lastly, Because Sir *John Fenwick* is so inconsiderable a Man, as to the endangering the Peace of the Government, that there needs no Necessity of proceeding against him in this extraordinary Manner.

Huntingdon,
Tbanet,
M. Daniel,

Halifax,
Lindsey,
P. Winton,

Normanby,
Weymouth,
Tho. Menev.

| | | |
|-------------------------|------------------------|-------------------------|
| <i>R. Batband Wells</i> | <i>Arundell,</i> | <i>Dartmouth,</i> |
| <i>Craven,</i> | <i>Lempster,</i> | <i>Suffex,</i> |
| <i>Carlisle,</i> | <i>Hereford,</i> | <i>Northampton,</i> |
| <i>Nottingham,</i> | <i>Carnarvon,</i> | <i>Bathe,</i> |
| <i>H. London,</i> | <i>Jonat. Exon',</i> | <i>Tho. Roffen',</i> |
| <i>Gil. Hereford,</i> | <i>Jeffreys,</i> | <i>Bristol,</i> |
| <i>Willoughby,</i> | <i>Northumberland,</i> | <i>Leeds,</i> |
| <i>Kent,</i> | <i>Abingdon,</i> | <i>Rochester,</i> |
| <i>R. Ferrers,</i> | <i>Hunsdon,</i> | <i>Leigh,</i> |
| <i>Granville,</i> | <i>Chandos,</i> | <i>Wilby. de Broke.</i> |
| <i>Fitzwalter,</i> | <i>Scarsdale,</i> | |

Die Sabbati 23^o Januarii, 1696.

The Order being read for taking into Consideration the second Reading of the Bill, entitled, *An Act for the farther regulating Elections of Members to serve in Parliament.*

And several Petitions against the said Bill being also read,

After Debate,

Contents 37 The Question was put, whether this
Not Cont. 62 Bill shall be read a second Time?
It was resolved in the Negative.

Dissentient,

Because this Bill did provide, that none but natural-born Subjects of *England*, and Men of Estates, should be capable of being chosen to serve in Parliament, which we conceive most agreeable to the Constitution and true Interest of this Kingdom.

| | | |
|--------------------|----------------------|------------------|
| <i>Feverham,</i> | <i>Cholmondeley,</i> | <i>Sandwich,</i> |
| <i>Nottingham,</i> | <i>Bathe,</i> | <i>Weymouth,</i> |
| <i>Dartmouth,</i> | <i>Tho. Roffen',</i> | <i>Halifax,</i> |
| <i>Tbanet,</i> | <i>Jeffreys,</i> | <i>Normanby.</i> |
| <i>Granville,</i> | <i>Tho. Menev',</i> | |

Die Jovis 15^o Aprilis, 1697.

Upon Report from the Committee of the whole House on the Bill to restrain the Number and ill Practice of Brokers and Stock-jobbers, that they had gone through the Bill with some Amendments,

The

The Question was put, whether this House will agree to the Amendments made by the Committee in leaving out these Words, 6th Skin, 35th and 36th Lines (made and enter'd into or)?

It was resolved in the Negative:

Assentient,

Because this Clause, without this Amendment, hath Retrospect.

Normanby, Rochester, Bradford,
Somerjet, Granville, Marlborough,
Clifforde, T. Jermyn, Bathe.

Die Jovis 3^o Martii, 1697.

Hodie 3^a vice lecta est Billa, entitled, An Act for dissolving the Marriage between Charles Earl of Macclesfield and Anne his Wife, and to illegitimate the Children of the said Anne;

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Assentient.

Because, we conceive, this is the first Bill of this Nature that hath passed, where there was not a Divorce first obtained in the Spiritual Court, which we look upon as a bad Precedent, and may be of dangerous Consequence to the future.

Halifax, Rochester.

Die Mercurii 15^o Junii, 1698.

A Conference was had with the Commons on the Subject-Matter of the Lords Message of the Eighth Instant, declaring they will proceed to the Trial of Goudet and others at the Bar of the House; and Report being made what was offered by the Commons,

The Question was put, whether this House shall insist upon their Declaration above-mentioned?

It was resolved in the Affirmative.

Assentient.

1st. Because the Managers of the House of Commons may have Occasion, in Trials upon Impeachment, to have recourse to Papers, Books, and Records, which they cannot so conveniently make use of in a Croud.

2^{dly}, It seems as reasonable, that some Provision should

should be made for their Convenience, and to protect them from the Croud at the Bar of this House, as in *Westminster-Hall*, the Judicature of this House receiving no Alteration by the Place to which they adjourn; nor could the Lords think so, when even upon the Desire of the Commons themselves in the Earl of *Stafford's* Case, being offered all imaginable Convenience at the Bar of this House, and finding themselves frightened thereby, the Lords appointed the Trial to be in *Westminster-Hall*, on that Consideration, as we conceive.

3^dy, The noblest Part of their Lordships Judicature may not only hereby be lost, but what has been hitherto thought one of the greatest Securities against Attempts upon the Constitution, by such a Discouragement of the Commons from bringing up Impeachments to the Bar of this House, will be very much weakened.

Downshire, Stamford, Haverham.

Die Veneris 1^o Julii, 1698.

After bearing Council for and against the Bill, entitled, *An Act for raising a Sum, not exceeding Two Millions, upon a Fund for Payment of Annuities after the Rate of eight Pounds per Centum, per Annum, and for settling the Trade to the East-Indies.*

| | | | |
|----------|----|------|--|
| Contents | 47 | } 65 | And Debate thereupon, the Question was put, whether this Bill shall be read a second Time? |
| Proxies | 18 | | |
| Not Cont | 28 | } 48 | It was resolved in the Affirmative. |
| Proxies | 20 | | |

Dissentient

1st, Because this Bill puts an unreasonable Hardship upon the present *East-India* Company, since it plainly appeared at the Bar of this House, that a Security, of which (we conceive) there was no Reason to doubt, had been offered by the said Company for raising the whole two Millions for the publick Service, whereas the Bill investing the new Subscribers with the Trade upon the Subscription of one Million only, does not, as we conceive, give so much as a Probability of raising more; and it may be reasonably enough doubted, whether the separate Trade allowed in this Bill, concurrent with a Joint-stock, may not prove so inconsistent as to discourage the Subscription from ever coming near to the said Million.

2^dy,

2dly, Because the Bill puts a Period to the Charter of the *East-India* Company, and gives the whole Trade thither to other Persons, without so much as suggesting that the said Charter, or the Trade carried on by Virtue of it, hath been prejudicial to the King or Kingdom, though the said Company have an expresse Clause in their Charter, that it shall not be determined without three Years Warning, even if it should appear not profitable to the King or this Realm; and the Bill granting likewise a Supply of Two Millions, in which the Commons pretended *the House of Lords* ought not to make any Alteration; we are of Opinion their Lordships are thereby likewise deprived of the Freedom of their Vote in the Matter of the *East-India* Trade, to which it cannot be denied but they have an equal Right with the Commons, and yet by its being joined to a Bill of Supply, this House must either be the Occasion of disappointing so large and necessary a Grant for the publick Service, or be put upon the unreasonable Hardship of consenting to a Matter which, tho' it seems never so unjust, it is fruitless for them to examine, if their Amendments are not to be admitted, because offered to a Money-Bill, which we humble conceive to be a manifest Violation of the Rights of this House, and tending to an Alteration of the Constitution of the Government.

Halifax,

H. London,

Willoughby,

Jeffreys,

Berkeley of Berkley,

P. Winchester,

Torrington,

Rochester,

Tho. Roffen,

Howard,

Denbigh,

E. Gloucester,

Scarsdale,

Godolphin,

Audley,

Granville,

Peterborow,

Dartmouth,

Berkeley,

Anglesey,

Guilford.

Die Jovis 27. Aprilis, 1699.

Hodie 3a vice lecta est Billa, entitled, An Act for granting to his Majesty the Sum of one Million, eighty-four Thousand and fifteen Pounds, one Shilling and eleven Pence three Farthings for disbanding the Army, providing for the Navy, and for other necessary Occasions.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

Because

Because of the Clause at the latter End of the Bill, which constitutes Commissioners for enquiring into, and taking an Account of all such Estates real and personal, within the Kingdom of *Ireland*, as have been forfeited for High-Treason by any Persons whatsoever during the late Rebellion within that Kingdom; which, we conceive, was a Matter foreign to this Bill, and more proper for a Bill by itself, and that the tacking of a Clause of that Nature is contrary to the ancient Method of Proceedings in Parliament, and on that Account, as we apprehend, may be of ill Consequence to the Freedom of Debate in either House, and highly prejudicial to the Privileges of the Peers and the Prerogative of the Crown.

Anglesey, Raby, Rochester;
Jo. Oxon', Haverham, Cholmondeley,
Suffolke, Warrington, Jeffreys.

Die Martis 23^o Januarii, 1699.

After hearing Council at the Bar to argue the Errors assigned upon the Writ of Error depending in this House, wherein *Robert Williamson* is Plaintiff, and his Majesty, by his Attorney-General, Defendant,

And Debate thereupon, this Question was put, whether the Judgment of Reversal shall be reversed?

It was resolved in the Affirmative.

Leave being asked and given for any Lord to Dissent, these Lords, whose Names are hereunto subscribed, do dissent, for the Reasons following:

For that, we conceive, it did not appear, that ever any such Judgment was given by the *Exchequer* before the annexing the Court of *Augmentations* to the *Exchequer*.

For that since the dissolving and annexing of the said Court of *Augmentations*, there hath no such Judgment been given, unless in such Cases which were in the Cognizance of the Court of *Augmentations* before it was dissolved.

That the Judgments in the Case of Sir *Henry Neville* and Sir *Thomas Wroth*, and others of the like Nature cited, seems to be by virtue of the Powers of the Court of *Augmentations* being annexed to the Court of *Exchequer*.

That those Courts were duly annexed, appears by the *Preamble of the Statute 1 Eliz. cap. 4.* by the Lord
 Chief

Chief Justice *Bromley's Case*, and by the Case of the Earl of *Devonshire* in *Coke's Reports*, and for that the Court of *First-Fruits* and *Tenths* was dissolved and annexed in like manner to the *Exchequer*, as the Court of *Augmentations* was; which Powers, by that Annexation, subsist in that Court to this Day.

| | | | |
|-------------------|-----------------|---------------------|--------------------------|
| <i>Lonsdale,</i> | <i>C. P. S.</i> | <i>Stamford,</i> | <i>W. Wigorn',</i> |
| <i>Sarum,</i> | | <i>Bergevenny,</i> | <i>Rich. Petriburg',</i> |
| <i>Rivers,</i> | | <i>J. Culpeper,</i> | <i>Audley.</i> |
| <i>Haverſham,</i> | | | |

Die Jovis 8^o Februarii, 1699.

After reading the Order of the nine and twentieth of *January* last, for resuming the adjourned Debate concerning the Settlement of the *Scotch Colony* at *Darien*,

And long Debate thereupon,

This Question was proposed, That the Settlement of the *Scotch Colony* at *Darien* is inconsistent with the Good of the Plantation-Trade of this Kingdom.

Then the previous Question was put, whether this Question shall be now put?

Conts. 32

Not Cont. 26

It was resolved in the Affirmative.

Dissentient'

Because, as we conceive, there has not been made appear, in this Debate, any Ground sufficient to determine a Point of so great Importance, and yet it has been refused to allow Time for due Information in a Matter of Trade, which is very obscure, and of the highest Consequence to the Quiet and Welfare of both Nations in this Conjunction.

| | | |
|-------------------|--------------------|------------------|
| <i>Normanby,</i> | <i>Nottingham,</i> | <i>Weymouth,</i> |
| <i>H. London.</i> | | |

Die Veneris 8^o Martii, 1690.

After long Debate upon the Evidence for and against the Bill to dissolve the Duke of *Norfolk's* Marriage with the Lady *Mary Mordaunt*, and to enable him to marry again, and the Subject-matter of the Bill,

Contents 47

Not Cont. 30

The Question was put, whether the said Bill shall be read a second time?

It was resolved in the Affirmative.

Dissentient?

18.

1st, Because we conceive, there was a Contradiction in the Evidence given at the Bar, which made the Validity of it suspected.

2^{dly}, And because it is without Precedent, that a Bill of this Nature was ever brought into Parliament, where the Subject-matter had not been first proceeded on in the Ecclesiastical Courts; and that it may be of dangerous Consequence to the Settlements of Families to subject the Dissolution of Marriages to so short and summary a Way of Proceeding.

| | | |
|----------------------|---------------------|------------------------|
| <i>Burlington,</i> | <i>Weymouth,</i> | <i>Bolton,</i> |
| <i>Rochester,</i> | <i>Vauxhall,</i> | <i>Tho. Roffen,</i> |
| <i>N. Cestriens,</i> | <i>Ja. Lincoln,</i> | <i>Sy. Eliensis,</i> |
| <i>Lempster,</i> | <i>Halifax,</i> | <i>Scarsdale,</i> |
| <i>Jonat. Exon,</i> | <i>Suffex,</i> | <i>Tbanet,</i> |
| <i>H. London,</i> | <i>Jeffreys,</i> | <i>North and Grey.</i> |
| <i>Montague,</i> | | |

Die Jovis 4^o Aprilis, 1700.

The Order being read for resuming the Debate adjourned Yesterday, upon the Bill entitled, *An Act for granting an Aid to his Majesty by Sale of forfeited Estates and Interests in Ireland, and by a Land-Tax in England, for the several Purposes therein mentioned,*

And Debate thereupon,

Contents 70
Not Cont. 23

The Question was put, whether this Bill shall be read a second time?

It was resolved in the Affirmative.

Dissentient

Though there be nothing we more earnestly desire, and shall on all Occasions, to the utmost of our Power, more sincerely and heartily endeavour, than the Preservation of a constant right and good Understanding and Agreement between *the Two Houses of Parliament*, as that on which the Safety, Welfare, and Happiness of the Nation, and the Preservation of the wisest and noblest Constitution in the World, does so much depend; yet we cannot but enter this our Protestation against a Second Reading of this Bill.

1st, Because, as we conceive, this Bill does, in one Part, tend very much to the Alteration (if not to the Destruction) of that Constitution which, we believe, the ~~other~~ in the other Part was given to preserve. 2^{dly},

2dly, Because, we conceive, the tacking so many and different Matters to a Money Bill is not only contrary to all the Rules and Methods of Parliament, but highly dangerous both to the undoubted Prerogative of the Crown, and Right of this House, putting it, as we conceive, in the Power of the Commons to make any Resolutions of their own as necessary as any Supply given for the Support or Emergencies of State.

3dly, We know not how far the just Right any private Subject has to his Estate may be endangered by the Precedent of such a Bill; for if the Titles so many Persons have to their Estates may be determined by the Commons in a Money Bill without either Oath or Appeal, as, we conceive, in this Bill they are, we cannot apprehend, how any single private Subject, or Minister of State, can, for the future, be safe; which must needs be a weakening the Prince's Hands, and the legal Security every Man now has to his Estate.

Richmond, Stamford, Bergevenny,
Haversham, Bolton, Anglesey.
Mebun, Audley,

Die Mercurii 10^o Aprilis, 1700.

A free Conference having been had with the Commons, upon the Subject-matter of the Amendments made by the Lords to the Bill for *Granting an Aid to his Majesty by Sale of the forfeited Estates and Interests in Ireland, and by a Land-Tax in England, for the several Purposes therein mentioned*; and Report made that the Commons had used no Reasons at the said free Conference, but said, they had Orders to return the Bill, and leave it with the Lords,

| | | | |
|-----------|----|------|---|
| Contents | 40 | } 43 | After Debate, the Question was put, whether this House will adhere to their Amendments made to this Bill? |
| Proxies | 3 | | |
| Not Cont. | 37 | } 43 | |
| Proxies | 6 | | |

It was resolved in the Negative.

| | | |
|-----------|----|--|
| Contents | 39 | Then the Question was put, whether this House will agree to the said Bill without any Amendment? |
| Not Cont. | 34 | |

It was resolved in the Affirmative.

We do dissent for the Reasons given this Day to the Com-

Commons at a Conference, which Reasons are as follows:

1st, Because the Reasons given by the Commons against their Lordships Amendments do no Way relate to the Matter contained in the said Amendments.

2^{dly}, Because though there be nothing in the said Amendments relating to Aids, and Supplies granted to his Majesty in Parliament, yet the Commons have thought fit to take Occasion thereupon to assert a Claim to their sole and entire Right, not only the granting all Aids in Parliament, but that such Aids are to be raised by such Methods, and with such Provisions as the Commons only think proper: If the said Assertions were exactly true (which their Lordships cannot allow) yet it could not, with good Reason, follow from thence, that the Lords may not alter, or leave out, according to their Amendments, when the saving Estates of innocent Persons, and of such as have been outlawed after their Death, makes such Amendments necessary.

3^{dly}, And the Lords think it unreasonable and unjust to vest in the Trustees any greater, or other Estate, than was in the forfeiting Person, or than the King may legally have; since thereby not only many innocent Persons, who come in by Descent or Purchase, or other valuable Considerations, might suffer equally as Criminals, but 'tis possible, that Men, who, with the utmost Hazard of their Lives have been defending the Government, may forfeit as Traitors: And they cannot apprehend, that by any Law of this Land, or by any Rule of Reason or Justice, any Person ought to be outlawed after his Death, since 'tis condemning a Man unheard, and allowing him no Opportunity of making his Innocence appear.

4^{thly}, The Lords admit the Resumption of the forfeited Estates in *Ireland* to be a Thing necessary, by Reason of the great Debt due to the Army and others, which they earnestly desire to see discharged, and are therefore very willing and desirous to give their Consents to any reasonable Bill the Commons shall send them up to that Purpose: But the Lords can by no Means consent, that the Commons shall take upon them to dispose of any of the said Forfeitures to any private Persons, it being the sole and undoubted Right of the Crown to be the Distributor of all *Baunces*, and being contrary to all

all the Laws and Course of Parliaments, to give Aids, Supplies, or Grants to any but the King only ; and as the contrary Practice is totally new and unprecedented, so, in Process of Time, it may become of the last ill Consequence to the Publick.

5^{thly}, The Lords cannot agree to the Clauses that create an Incapacity in the Commissioners or Managers of the Excise for sitting in this Parliament, because the Qualification of Members to serve in Parliament is a Thing (if proper to be meddled with at all) that hath been thought fit by the Commons to be in a Bill by itself ; and the joining together, in a Money Bill, Things so totally foreign to the Methods of raising Money, and to the Quantity or Qualification of the Sums to be raised, is wholly destructive of the Freedom of Debates, dangerous to the Privileges of the Lords, and to the Prerogative of the Crown : For by this Means Things of the last ill Consequence to the Nation may be brought into Money Bills, and yet neither the Lords, nor the Crown, be able to give their Negative to them, without hazarding the publick Peace and Security : And it seems a great Hardship to the Counties and Places, who chuse such Members, to deprive them of their Services, since they knew them to be Commissioners of Excise at the Time they chose them, and since the Commons admit them to be proper Persons to serve either in Excise or Parliament, tho' not at the same Time ; so that there seems to be no other Reason of distinguishing these Commissioners but what is common to all other Officers of the Crown ; and the Question, whether such an Alteration may be convenient, must needs be a Doubt with the Lords, since the Commons have not been able this very Session to satisfy themselves with the Bill, and the Considerations they have entertained upon that Subject : The Lords do seriously consider the Dangers and Inconveniencies that are likely to happen by the Loss of this Bill, and by the Difference betwixt the two Houses, and are heartily sorry for them, and desirous to avoid them by all the Means they can ; as does manifestly appear by having complied and over-looked the Irregularities of Bills of the like Nature, and, at the same Time, by entering in their Books, to be seen by Every-body, their
just

just Sense of the Wrong, and their Resolutions of asserting that fundamental Right, of the Exercise of which there are many Precedents extant in their Books: But since they find, that such their kind Intentions of maintaining a good Correspondence with the Commons has had no other Effect but to introduce greater Impositions upon them, and such as will certainly prove destructive to the ancient and excellent Constitution of our Government, since the Lords have no Objection to the Resumption, nor no Design to invade the least Right of the Commons, but only to defend their own, that they may transmit the Government and their own Rights and Privileges to their Posterity in the same State and Condition that they were derived down to them from their Ancestors; they think themselves wholly discharged from being in the least accessory to any such Dangers or Inconveniencies, and conceive they are sufficiently justified before God and Man, notwithstanding such Innovations and Invasions upon our Constitution and our Laws as must necessarily prove the Destruction of them.

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|----------------------|------------------------------|-------------------------|
| <i>Norfolke,</i> | <i>E. M. J. Bridgewater,</i> | <i>Stamford,</i> |
| <i>Mobun,</i> | <i>Culpeper,</i> | <i>Audley,</i> |
| <i>Haversham,</i> | <i>Howard,</i> | <i>Herbert,</i> |
| <i>Say and Seal,</i> | <i>Southampton,</i> | <i>Richmond,</i> |
| <i>Anglesey,</i> | <i>Sandwich,</i> | <i>Pembroke,</i> |
| <i>R. Ferrers,</i> | <i>Lonsdale,</i> | <i>C. P. S. Bolton,</i> |
| <i>Raby,</i> | <i>Bergevenny,</i> | <i>North and Grey.</i> |

Die Lunæ 3^o Martii, 1700.

An Account was given to the House by certain Lords appointed to visit the Countess of *Anglesey*, in Order to persuade her to return to her Husband, of her Reasons for her Refusal; and after hearing the Earl of *Anglesey* and reading the Countess's Petition, and Debate thereupon,

The Question was put, whether the Countess of *Anglesey* shall have Leave to bring in a Bill for a Separation for Cruelty, as is prayed for in her Petition?

It was resolved in the Affirmative.

Dissentient^s,

1st, The Leave for this Bill is founded upon the Supposition of an utter Impossibility of a Reconciliation between my Lord *Anglesey* and the Countess; which Supposition



(with Submission) seeming to me very precarious, though it may be the Consequence of such a Bill, to me, be the Reason for it.

Marriage being looked upon in the Church of a Sacrament always and in all Cases indissoluble, the pretended Authority of the infallible Vicar; the being, in some Cases, an absolute Necessity for Divorce, the *Roman* Courts of Judicature fearing the Weakness of the Infallibility, contrived the Practice of a separate Maintenance; which Practice I humbly conceive, such a Bill would give too much Maintenance to.

A perpetual separate Maintenance, as seems in my Judgment such a Bill, is a much heavier Judgment upon the Conscience of *Anglesey* than Divorce itself, it having all the Force of a Punishment to my Lord *Anglesey*, and no Ease; and is directly contrary to the very Intent and Design of Marriage, Posterity and Society destroyed, and the Publick injured thereby.

No Judgment in this Matter (as I humbly conceive) ought to be made, or when made can be valid, unless it is expressly allowed of by the Evangelick Law, as it is, to me, seems no where to permit of such a Separation, without an absolute Divorce.

Though it cannot be doubted, but in the Course of many Ages, as great Domestic Differences have arisen between Men and their Wives as in the present Age, yet no Precedent has as yet been produced, as if, of any Bill of the like Nature.

Haverham.

Die Sabbati 8^o Martii, 1700.

Dissent.

For that Captain Norris having been accused by many Witnesses, upon Oath, of great Neglect of his Duty, in not attacking Monsieur Perre's Ship in Conception Bay, notwithstanding the Intelligence given of them to him by Captain Defforville, Comde-Isle, and several Prisoners, and that pestering his Ship with Prize-Goods, which he had embezzl'd; and thereupon the House having made an Address to his Majesty, it was ordered Captain Norris to attend the House to answer such Matters as had been objected against him, and that in the mean time, he should be suspended from his Employment, which his Majesty has been pleased to order; and accordingly Captain Norris having appeared before us, but the Matters not having been fully examined by hearing at this Time the Witnesses either against him, or for him, we conceive it very improper to make any such Address in his Favour, he being, for all that yet appears to us, guilty of the Matters charged upon him; and we are the more convinced of this, because the Motion made of remitting Captain Norris to a Trial, by a Council of War, was not accepted; and besides the Unreasonableness of passing any Sentence of acquitting a Man accused, upon Oath, without a full Hearing of the Cause, we think it also of very dangerous Consequence that, in this Conjunction especially, a Man should be capable of being employed in so important a Station as in the Fleet, who lies under the heavy Charge of embezzling Prizes, and pestering his Ship with them, and of failing to attempt a Service which would have been of vast Advantage to us, and Prejudice to our Enemies.

*Willoughby,
Leeds,
Nottingham,
Thanet,*

*Howard,
Normanby,
Torrington,
Weymouth,*

*Jeffreys,
Poulett,
Oxford,
Granville.*

Die Sabbati 15^o Martii, 1700.

The Earl of *Nottingham* reported from the Committee appointed to draw up and state the Facts, as to the Treaty of Partition, that they had thought proper to set down such Facts as appeared to them.

And the second Head being read, *viz.*

That

That the Emperor was not a Party to this Treaty, though principally concerned,

Contents 24 The Question was put, whether this Paragraph shall stand?
Not Cont. 40 It was resolved in the Negative.

Dissentient'

1st, Because it is manifest by the Treaty itself, that the Matter of Fact is true.

2^{dly}, Because the Emperor, as we conceive, had been the most proper to have treated with on this Occasion, for it was more prudent and safe to have treated with the Emperor to have restrained the Pretensions of *France* than with *France* to lessen the Dominions of the *House of Austria*, which in its full Strength, and in Conjunction with the most considerable Powers in *Europe*, and with the Expence of more than sixty Millions *Sterling* to our Share, was scarce able to withstand the Arms of *France*.

3^{dly}, But admitting that the Emperor was not the most proper to be treated with, yet to prevent the Umbrage that might be taken by uniting too many Dominions under one Prince, especially such a Prince as, without any Additions, was formidable to all *Europe*, yet of all others the Emperor was the most improper to be left out of such a Treaty, for he was most concerned in it; and our Ministers could not, or at least did not, sufficiently support his Interests, or the just Ballance of *Europe*; but, on the contrary, as we are informed by one Lord who who signed the Treaty, it was concluded against the express Desire of the Emperor.

| | | |
|------------------------|-------------------|--------------------|
| <i>De Longueville,</i> | <i>Granville,</i> | <i>Abingdon,</i> |
| <i>Howard,</i> | <i>Scarsdale,</i> | <i>Normanby,</i> |
| <i>Thanet,</i> | <i>Jeffreys,</i> | <i>Guilford,</i> |
| <i>Craven,</i> | <i>Leeds,</i> | <i>Nottingham,</i> |
| <i>Hereford,</i> | <i>Weymouth,</i> | <i>Poulett.</i> |
| <i>Tho. Roffen,</i> | | |

Then the third Head was read, *viz.*

That no Minister of *the States General* met with the Plenipotentiaries of *England* and *France*, as were required by the Powers at the making the Treaty in *London*.

The Question was put, whether this Paragraph shall stand?

It was resolved in the Negative.

Dissentient,

1st, Because the Truth of this Proposition is Reason enough for asserting it, and it must certainly be of great Consequence, if Ministers, without any Directions or Instructions in Writing, shall presume to act contrary to the very Commission that impowers them; and, in the Case, the Assistance of the *Dutch* Ministers was the most necessary, because the Emperor was no Party to the Treaty, and *the States General* are more immediately concerned, than we are, to promote his Interests.

2^{dly}, But if this Treaty was concerted with the *Dutch* Ministers in One Thousand Six Hundred Ninety-nine before his Majesty's Return into *England*, as was asserted by one of the Lords who signed it afterwards in *London*, then,

1. This Treaty was made by those who had no Authority to transact it, for the Power was not granted by his Majesty till the 2^d of *January* following.

2. As they acted without Power, so without Instructions too in Writing, which never was practised in any former Transactions abroad.

Lastly, We conceive, that neither of the foregoing Facts ought, in Reason, or according to the Method of Parliament, to be ordered to be omitted, because, till the Committee had formed the Address, pursuant to the Order, 'twas impossible to know what Use would be made of those Facts; for as they might have been improperly applied, and then would have been justly rejected, so there might have been so great Use made of them, and so apposite to the Design of the House, in the intended Address, that 'twill be improper to omit them.

| | | |
|------------------------|-------------------|--------------------|
| <i>Thanet,</i> | <i>Granville,</i> | <i>Howard,</i> |
| <i>Leeds,</i> | <i>Craven,</i> | <i>Jeffreys,</i> |
| <i>Tho. Roffen,</i> | <i>Weymouth,</i> | <i>Abington,</i> |
| <i>Hereford,</i> | <i>Normanby,</i> | <i>Nottingham.</i> |
| <i>De Longueville,</i> | | |

Die Martis 18^o Martii, 1700.

After Debate concerning the Treaty of Partition, it was proposed, that it appears, that the *French* King's Acceptance of the Will of the King of *Spain* is a manifest Violation of the Treaty, and humbly to advise

the King, that, in all future Treaties with the *French* King, his Majesty do proceed with such Caution as may carry along with it a real Security.

After Debate thereupon,

This Question was put, whether the said Proposal shall go to the Committee to be one of the Heads for the Address ?

It was resolved in the Affirmative.

Dissentient,

1st, Because it must be construed to be an Approbation of the Treaty, which (as we conceive) was not intended by the House.

2^{dly}, Because it is impossible to know the full Meaning and Extent of real Security.

Nottingham,

Rocheſter,

Guilford,

Granville,

Weymouth,

Godolphin.

Normanby,

Abingdon,

Die Jovis 20^o Martii, 1700.

An Address to his Majesty touching the Treaty of Partition was reported and agreed to.

And the Question being put, whether
 Contents 27 this Address shall be communicated
 Not Cont. 45 to *the House of Commons* for their
 Concurrence ?

It was resolved in the Negative.

Dissentient,

1st, Because, we conceive that the last Clause in the Address does necessarily imply a War, and that a very long one, by Reason of the Extent, unintelligible at least to us, of a real Security, and the greatest Improbability of obtaining any Terms of that Kind ; and since this necessarily implies great Supplies, which cannot be granted without *the House of Commons*, we think their Concurrence, in this Advice, absolutely necessary, and that it is very improper for us to desire that of the King, which, for Want of such Concurrence of the Commons, we conceive, his Majesty will not think fit or prudent for him to grant.

2^{dly}, We conceive all the other Parts of the Address very fit to be communicated to *the House of Commons*, for upon the Success of it depends the future Happiness of
 this

this Nation; and as we cannot doubt of the Readiness of the Commons to join in any proper Measures towards it, so we think their Concurrence in it would highly contribute towards the obtaining a gracious Answer from his Majesty; and we cannot but think it reasonable that the Advice of the whole Nation, assembled in Parliament, should be made known to his Majesty upon this Occasion.

3dly, Having desired *the House of Commons* to permit Mr. Secretary *Vernon*, a Member of their House, to come to a Committee of Lords to inform them of some Matters relating to this Treaty; we apprehend, that *the House of Commons* may think it extraordinary, and not suitable to the good Correspondence which is highly necessary between the two Houses, not to acquaint them with the Things which have come to our Knowledge, partly by the Information of their own Member.

4thly, And having been otherwise informed of some Transactions relating to this Treaty between the Earl of *Portland* and Mr. Secretary *Vernon* by Letters, of which we have not had a full Account, we think it may be very useful to the Publick to communicate this Address to the Commons, who have better Opportunity than we have had of enquiring into this Matter, which seems to be yet in the Dark, and which their own Member may help to explain to them.

| | | |
|------------------------|--------------------|--------------------|
| <i>Leeds,</i> | <i>Batbe,</i> | <i>H. London,</i> |
| <i>De Longueville,</i> | <i>Abingdon,</i> | <i>Normanby,</i> |
| <i>Weymouth,</i> | <i>Craven,</i> | <i>Hun'don,</i> |
| <i>Jeffreys,</i> | <i>Willoughby,</i> | <i>Thanet,</i> |
| <i>Guilford,</i> | <i>Kent,</i> | <i>N. Duresme,</i> |
| <i>Tho. Roffen',</i> | <i>Carnarvon,</i> | <i>Scarsdale,</i> |
| <i>Poulett,</i> | <i>Nottingham,</i> | <i>Granville.</i> |

Die Mercurii 16° Aprilis, 1701.

The House being moved, that an Address be made to his Majesty, that he will be pleas'd to pass no Censure or Punishment against the four Noble Lords who stand impeached of high Crimes and Misdemeanors, until the Impeachments depending against them in this House shall be tried.

Contents 49 After Debate, the Question was put
Not Cont. 29 thereupon?

And

And it was resolved in the Affirmative.

Dissentient,

1st, Because, we conceive, it is contrary to the Method of Proceeding in Parliament, to take Notice in this House of what is represented only, by some Lords, to have passed in the other.

2^{dly}, And it is not proper to address the King on a Subject that is not before this House to judge of, which may engage this House in what is indecent towards his Majesty, and may be of ill Consequence between the two Houses.

| | | |
|----------------------|--------------------|-------------------|
| <i>Scarsdale,</i> | <i>Carnarvon,</i> | <i>Ormonde,</i> |
| <i>Normanby,</i> | <i>Thanet,</i> | <i>Kent,</i> |
| <i>Townsbend,</i> | <i>Weymouth,</i> | <i>Rochester,</i> |
| <i>Abingdon,</i> | <i>Asburnham,</i> | <i>Howard,</i> |
| <i>Jonat. Exon</i> , | <i>Hereford,</i> | <i>Poulett,</i> |
| <i>Lexington,</i> | <i>Granville,</i> | <i>Weston,</i> |
| <i>H. London,</i> | <i>Guilford,</i> | <i>Jeffreys,</i> |
| <i>Sandwich,</i> | <i>Willoughby,</i> | <i>Dartmouth.</i> |
| <i>Chelmondeley,</i> | | |

Exception being taken to the before-mentioned Protestation,

The Protestation was read. And after Debate,
 Contents 22 The Question was put, whether the first
 Not Cont. 28 Reason in the Protestation shall stand?
 It was resolved in the Negative.

Then the second Reason in the Protestation was read.
 After Debate,

The Question, was put, whether the second Reason
 in the Protestation shall stand?

It was resolved in the Negative.

The foregoing Reasons were order'd to be expung'd,
 but the above may be depended upon as a genuine Copy.

Dissentient,

Because it is the Privilege of the Peers to enter their Dissent, and it has been the ancient Practice to enter also their Reasons of such Dissent, of which the Lords that so protest are the most proper Judges, as well knowing what Arguments persuaded them to be of that Opinion; and no Reasons can be more proper than such as they conceive are founded upon Matter of Fact.

| | | |
|-------------------|----------------------|-------------------|
| <i>Sandwich,</i> | <i>Lexington,</i> | <i>Scarsdale,</i> |
| <i>Carnarvon,</i> | <i>H. London,</i> | <i>Townshend,</i> |
| <i>Feverham,</i> | <i>Jonat. Exon',</i> | <i>Abingdon,</i> |
| <i>Rocheſter,</i> | <i>Willoughby,</i> | <i>Dartmouth,</i> |
| <i>Weymouth,</i> | <i>Ormond,</i> | <i>Weſton,</i> |
| <i>Howard,</i> | <i>Normanby,</i> | <i>Guilford,</i> |
| <i>Granville,</i> | <i>Thauet,</i> | <i>Jeffreys.</i> |
| <i>Poulett.</i> | | |

Die Martis 3^o Junii, 1701.

Report was made of an Answer, drawn by a Committee, to be sent to *the House of Commons*, to their Message received the 31st of *May* last, relating to the Impeachments now depending against the four Lords.

And the first Paragraph being read, was agreed to.

Then the second Paragraph was read as follows, *viz.*

(And as the Lords do not controvert what Right the Commons may have of impeaching in general Terms, if they please, so the Lords, in whom the Judicature does entirely reside, think themselves obliged to assert, that the Right of determining what is a due Time, in which the particular Articles of Impeachment ought to be exhibited, is lodged in them only.)

It being proposed that an Amendment be made in this Paragraph, that instead of the Words, *viz.* (determining what is a due Time in which the particular Articles of Impeachment ought to be exhibited, is lodged in them only) these Words may be inserted, (Limiting a convenient Time for bringing the particular Charge before them for avoiding Delay in Justice, is lodged in them.)

Contents 43 After Debate, the Question was put,
Not Cont. 27 whether the second Paragraph so amended shall stand?

It was resolved in the Affirmative.

Dissentient'

Because, we conceive, this Assertion is new.

| | | |
|----------------------|--------------------|----------------------|
| <i>Normanby,</i> | <i>Nottingham,</i> | <i>Marlborough</i> |
| <i>Oxford,</i> | <i>H. London,</i> | <i>Tho. Roffen',</i> |
| <i>Jonat. Exon',</i> | <i>Lexington,</i> | <i>Rocheſter,</i> |
| <i>Weymouth,</i> | <i>Plymouth,</i> | <i>Granville,</i> |
| <i>Jeffreys,</i> | <i>Guilford,</i> | <i>Cholmondeley,</i> |
| <i>Lindſey,</i> | <i>Lawarr,</i> | <i>Dartmouth,</i> |
| <i>Howard,</i> | <i>Hunſdon</i> | <i>Godolphin.</i> |

Then

Then the last Paragraph was read as follows, *viz.*

(The Lords hope the Commons, on their Part, will be as careful not to do any Thing that may tend to the Interruption of the good Correspondence between the Houses, as the Lords shall ever be on their Part; and the best Way to preserve that, is for neither of the two Houses to exceed those Limits which the Law and Custom of Parliaments have already established.)

And after Debate, the Question was put, whether the last Paragraph shall stand?

It was resolved in the Affirmative.

Dissentient'

Because we know not that the Law and Custom of Parliaments have established any certain Limits.

| | | |
|----------------------|----------------------|----------------------|
| <i>Normanby,</i> | <i>Nottingham,</i> | <i>Marlborough,</i> |
| <i>H. London,</i> | <i>Tho. Roffen',</i> | <i>Jonat. Exon',</i> |
| <i>Rochester,</i> | <i>Abingdon,</i> | <i>Weymouth,</i> |
| <i>Oxford,</i> | <i>Granville,</i> | <i>Jeffreys,</i> |
| <i>Guildford,</i> | <i>Lexington,</i> | <i>Lindsey,</i> |
| <i>Howard,</i> | <i>Plymouth,</i> | <i>Lawarr,</i> |
| <i>Dartmouth,</i> | <i>Hunsdon,</i> | <i>Gedolphin.</i> |
| <i>Chelmondeley,</i> | | |

Die Lune 9^o Junii, 1701.

It being moved to have a Conference with the Commons to let them know, that the Lords do not agree to a Committee of both Houses in Relation to the Trials of the impeached Lords; after Debate thereupon,

This Question was put, whether a Committee of this House shall be appointed to meet with a Committee of *the House of Commons*, in Relation to the Proceedings upon the Impeachments?

It was resolved in the Negative.

Dissentient'

Because the Lords, in the Year One thousand six hundred seventy nine, consented to a Committee of Lords and Commons, for regulating the Trials, of the Popish Lords; and therefore the refusing to comply with the Commons in the same Request at this Time will be (in our Opinion) a great Obstacle to the Trials of the impeached Lords.

| | | | |
|------------------|---------------|------------------|-----------------|
| <i>Somerſet,</i> | <i>Derby,</i> | <i>Normanby,</i> | |
| | <i>G 5</i> | | <i>Deubigh,</i> |

| | | |
|----------------------|--------------------|---------------------|
| <i>Denbigh,</i> | <i>Rochester,</i> | <i>Weymouth,</i> |
| <i>Lawarr,</i> | <i>Guilford,</i> | <i>Torrington,</i> |
| <i>Jonat. Exon',</i> | <i>Carnarvon,</i> | <i>Marlborough,</i> |
| <i>Oxford,</i> | <i>Lexington,</i> | <i>Abingdon,</i> |
| <i>Peterborow,</i> | <i>Nottingham,</i> | <i>H. London,</i> |
| <i>Dartmouth,</i> | <i>Howard,</i> | <i>Godolphin.</i> |

Die Mercurii 11^o Junii, 1701.

The Message received Yesterday from *the House of Commons*, was read; and after Debate of the several Particulars contained in it,

This Question was proposed, that no Lord of Parliament, impeached of high Crimes and Misdemeanors, and coming to his Trial, shall, upon his Trial, be without the Bar.

Then the previous Question was put, whether this Question shall be now put?

It was resolved in the Affirmative.

Dissentient'

Because however reasonable this Proposition may appear to us, yet we conceive it very improper to determine it, before we have heard what the Commons can say upon it.

| | | |
|----------------------|----------------------|--------------------|
| <i>Nottingham,</i> | <i>Weymouth,</i> | <i>H. London,</i> |
| <i>Jonat. Exon',</i> | <i>Tho. Roffen',</i> | <i>Rochester,</i> |
| <i>Abingdon,</i> | <i>Guilford,</i> | <i>Torrington.</i> |

Die Sabbati 14^o Junii, 1701.

A Message was sent to *the House of Commons* by Sir *John Hoskins* and Dr. *Newton*, to acquaint them, that upon the Occasion of their last Message Yesterday, in order to continue a good Correspondence between the Two Houses, their Lordships did immediately appoint a Committee to state the Matter of the free Conference, and also to inspect Precedents of what has happened of the like Nature; and that the publick Business may receive no Interruption, the Time desired by their Lordships for renewing the free Conference being elapsed, their Lordships desire a present free Conference in the painted Chamber upon the Subject-matter of the last free Conference.

Dissentient'

We

We conceive it to be improper, and not agreeable to the Methods of Parliament, to send for a second free Conference before the first is determined, or that there is a Vote of the House passed for insisting.

| | | |
|-------------------|--------------------|----------------------|
| <i>Denbigh,</i> | <i>Lawarr,</i> | <i>H. London,</i> |
| <i>Weymouth,</i> | <i>Abingdon,</i> | <i>Jonat. Exon',</i> |
| <i>Carnarvon,</i> | <i>Peterborow,</i> | <i>Tbo. Roffen'.</i> |
| <i>Dartmouth,</i> | | |

The House being moved to insist not to have a Committee of both Houses touching the Trials of the impeached Lords.

After Debate thereupon, the Question was put, whether this House shall insist upon their Resolution of not allowing a Committee of both Houses?

It was resolved in the Affirmative.

Dissentient'

We conceive it to be improper, and not agreeable to the Methods of Parliament, to pass a Vote for insisting, before the first free Conference is determined; or if it be determined, as we conceive it is not, the Vote for insisting should have preceeded the Message for a second free Conference.

| | | |
|---------------------|--------------------|--------------------|
| <i>Abingdon,</i> | <i>Tbanet,</i> | <i>Dartmouth,</i> |
| <i>Weymouth,</i> | <i>Lawarr,</i> | <i>Nottingham,</i> |
| <i>Carnarvon,</i> | <i>Peterborow,</i> | <i>H. London.</i> |
| <i>Jonat. Exon,</i> | | |

Die Sabbati 21^o Junii, 1701.

The Answer of *John Lord Haversham*, to the Charge sent up against him by the Commons, having been sent down to that House.

It was proposed to resolve, that unless the said Charge shall be prosecuted against the said Lord *Haversham*, with Effect, by the Commons, before the End of this Session of Parliament, the Lords will declare and adjudge him wholly innocent of the said Charge.

The Question was put, whether such a Resolution shall be agreed to?

It was resolved in the Affirmative.

Dissentient'

1st, Because the Justice of our Judgment of acquitting the Lord *Somers* depending on our Right to name a peremptor

remptory Day, I do conceive that by this Vote that Right is violated, the Commons being by it allowed to declare when they are ready to prosecute, before any Day is by us named.

2dly, Because having thought fit to name a Day for the Impeachment of the Lord Somers, to be consistent to ourselves, we ought to pursue the same Methods: Nor does this, being a Charge only, alter the Case; for what is done in Matters of greater Moment may safely be pursued in Cases of less Concern.

3dly, Because, to me, there does not seem any Need of farther Prosecution on the Commons Part in this Matter, the Fact and the Nature of it being both fully before us:

North and Grey.

Die Lune 23^o Junii, 1701.

The House refused the adjourned Debate upon the printed Votes of *the House of Commons* of the Twentieth Instant.

And 'twas resolved, upon the Question, that whatever ill Consequences may arise, from the so long deferring the Supplies for this Year's Service, they are to be attributed the fatal Counsel of putting off the meeting of a Parliament so long, and to the unnecessary Delays of *the House of Commons*.

Dissentient

Because tho', I humbly conceive, it is evident to all *Englishmen*, that nothing could be more fatal to the Interest of *Europe*, to the Interest of the Protestant Religion, and the Safety of *England*, than the so long Delay of the Meeting of a Parliament after the Death of the King of *Spain*, yet I cannot agree to the latter Part of this Vote, which lays Imputations of unnecessary Delays to this *House of Commons*.

Peterborough.

Die Veneris 20^o Februarii, 1701.

Hodie 3^a vice lecta est Billa, entitled, An Act to attaint *Mary*, late Wife of the late King *James*, of High-Treason.

Contents

Contents 18
Not Cont. 28

The Question was put, whether this Bill
shall pass?

It was resolved in the Affirmative.

Because there was no Proof of the Allegations in the Bill so much as offered, before the passing of it, which is a Precedent that may be of dangerous Consequence.

| | | |
|------------------------|-------------------|------------------------|
| <i>Winchelsea,</i> | <i>Weymouth,</i> | <i>Dartmouth,</i> |
| <i>North and Grey,</i> | <i>Feverham,</i> | <i>Starwell,</i> |
| <i>Bradford,</i> | <i>Jeffreys,</i> | <i>De Longueville,</i> |
| <i>Crown,</i> | <i>Plymouth,</i> | <i>Northampton,</i> |
| <i>Guilford,</i> | <i>Scarsdale,</i> | <i>H. London.</i> |

Die Martis 24^o Februarii, 1701.

Hodie 3^a vice lecta est Billa, entitled, An Act for the further Security of his Majesty's Person, and the Succession of the Crown in the Protestant Line, and for extinguishing the Hopes of the pretended Prince of *Wales*, and all other Pretenders, and their open and secret Abettors.

After Debate, the Question was put, whether this Bill, with the Amendments, shall pass?

It was resolved in the Affirmative.

Dissentient'

1st, We conceive that no new Oath should be imposed upon the Subject, so far as those established by an Act made in the first Year of the Reign of his Majesty and the late Queen *Mary* were, together with our Rights and Liberties, ascertained in that Act under the Terms of our Submission to his Majesty, and upon which his Majesty was pleased to accept the Crown; and which were enacted to stand, remain, and be the Law of this Realm for ever; and which, we conceive, do comprehend and necessarily imply all the Duty and Allegiance of the Subject to their lawful King.

2^{dly}, And much less should any new Oath be imposed upon the Lords, with such a Penalty as to lose their Seats in Parliament, upon their refusing it; such a Penalty being, in some Measure, an Intrenchment upon our Constitution, and expressly contrary to the standing Order of this House made the 30th Day of *April*, 1675.

3^{dly}, And if such an Infringement of the Rights of Peers might be admitted, yet in a Matter of so great Importance

Importance to all the Peers, we conceive, that in Justice they should all have had Notice of this Matter, and specially summoned to have attended the House upon so great an Occasion; which has not been done, tho' it was moved and humbly desired on Behalf of the absent Lords.

4^{thly}, And if any further Evidence of the Subjects Fidelity were, at this Time, necessary to be required, we conceive a new Oath is no such Evidence, nor any additional Security to the Government; because those who have kept the Oaths, which they have already taken, ought in Justice to be esteemed good Subjects; and those, who have broken them, will make no Scruple of taking or breaking any others that shall be required of them: And consequently this new Oath may be of dangerous and pernicious Consequence to the Government, by admitting such ill Men, who do not fear an Oath, into the greatest Trusts, and who, under the specious Pretence and Protection of this new Oath, which is to free them from Suspicion, will have greater Opportunities of betraying their King and their Country.

5^{thly}, If a new Oath were necessary, as we conceive it is not, yet the Words of this Oath are so very ambiguous, and have been so very differently construed by several Lords who have declared their Sense of them, that this may become a Snare to Mens Consciences, or tend to overthrow the Obligation of an Oath, by allowing Men Liberty to take it in their own Sense; whereas this, as all other Oaths, ought to be taken in the Sense of the Imposer, which hath not been declared in this Case, tho' we earnestly pressed it, and tho' it has been done in other Cases of the like Nature.

6^{thly}, And, we conceive, that it necessarily follows from hence, that this Oath can be no Bond of Union among those who do take it, nor any true Mark of Distinction between the Friends and the Enemies of this Government; and therefore repugnant to the very Nature of a Test.

| | | |
|--------------------|--------------------|-------------------|
| <i>Winchelsea,</i> | <i>Weymouth,</i> | <i>Scarsdale,</i> |
| <i>Denbigh,</i> | <i>Plymouth,</i> | <i>Starwell,</i> |
| <i>Guilford,</i> | <i>Nottingham,</i> | <i>Jeffreys.</i> |
| <i>Craven,</i> | | |

The first Reason of the above Protest, tho' order'd to be expung'd, may be depended upon as a genuine Copy.

Die Martis 19^o Januarii, 1702.

Upon Report from the Committee of the whole House on the Bill to enable her Majesty to settle a Revenue upon the Prince of *Denmark*, in case he survived her, That they had gone through the Bill, and left out one Clause which enacted, that in Case of the Prince's surviving he might be capable to be of the Privy-Council, a Member of this House, to enjoy any Office, the Grants herein mentioned, or any other, notwithstanding the Act of Succession in the 12th of the late King.

And the Question being put, whether to agree with the Committee in leaving out this Clause?

It was resolved in the Negative.

Dissentient

1st, We do dissent from this Clause, because, we conceive, this is a Bill of Aid and Supply; and that this Clause is altogether foreign to, and different from the Matter of the said Bill; and that the passing of such Clause is therefore unparliamentary, and tends to the Destruction of the Constitution of this Government.

2^{dly}, Because, we conceive, that a parliamentary Expedient might have been found, whereby his Royal Highness might, by an unanimous Consent, have all the Advantages designed him by this Bill, without the Lords being obliged to depart from what we conceive to be their undoubted Right.

3^{dly}, Because, we conceive, that this Clause was not necessary to enable his Royal Highness to enjoy the Benefit of the said Grants.

4^{thly}, Because that this Clause, which pretends to capacitate his Royal Highness to enjoy his Peerage notwithstanding the Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject, and which makes no Provision for other Peers under the same Circumstances, we conceive, may tend much to their Prejudice.

Torrington, Portland, Jo. Litch and Coven.

Say and Seale, Manchester, Offulstone.

Sommers, Kingston,

We dissent from the Clauses relating to the Grants.

1st, Because the said Grants are not laid before the House

House (tho' desired) by which we are ignorant upon what Consideration the same were granted.

2^{dly}, Because, we conceive, that the saving Clauses are so far from having any Relation to his Royal Highness, that if they signify any thing (without any Respect to him) they prefer their Payment before his.

| | | |
|----------------------------------|-------------------------|------------------------|
| <i>Somerset,</i> | <i>Say and Seal,</i> | <i>Radnor,</i> |
| <i>Devonshire,</i> | <i>W. Worcester,</i> | <i>Jo. Cbichester,</i> |
| <i>The Countess,</i> | <i>Rich. Petriburg,</i> | <i>Jo. Banger,</i> |
| <i>Huntingdon,</i> | <i>Gi. Sarum,</i> | <i>Sunderland,</i> |
| <i>Oxford,</i> | <i>Rivers,</i> | <i>The. Wharton,</i> |
| <i>Bath,</i> | <i>Lowclace,</i> | <i>Essex,</i> |
| <i>Malton,</i> | <i>Townsend,</i> | <i>Poulett,</i> |
| <i>Berkeleys,</i> | <i>Herbert,</i> | <i>Rockingham,</i> |
| <i>Berkely of Stratton,</i> | <i>Carlisle E. M.</i> | <i>Stanford.</i> |
| <i>Jo. Litchfield and Coven.</i> | | |

Die Veneris 22^o Januarii, 1702.

After hearing Council upon the Petition of *Robert Squire, Esq;* and *John Thompson* in Relation to an Appeal of the Right Honourable *Thomas Lord Wharton*, and the Answer of his Lordship to the said Petition; and Debate thereupon,

The Question was put, whether the Petition of *Robert Squire*, and *John Thompson* shall be dismissed, and they ordered to answer the said Appeal?

It was resolved in the Affirmative.

Dissentient

First, Because, we conceive, that by this, we assume a Jurisdiction in an original Cause, for these Reasons:

1st, Because there has been no Suit between the Parties in the *Exchequer*, and consequently this Petition cannot be called an Appeal from that Court.

2^{dly}, Altho' there was a Suit in the Court of *Chancery*, yet one of the Persons required to answer was not a Party in that Suit; and therefore, as to him, at least it must be an original Cause.

3^{dly}, Though all had been Parties in the *Chancery*, yet it never was heard that an Appeal lay from one Court that had no Suit depending in it, because there was a Suit depending in another Court.

Secondly, Because no Court can take any Cognizance of

of a Cause, in which that Court cannot make an Order ; but in this Case, *the House of Lords* cannot make an Order, because, very many are concerned in this Record, who are not before this House ; therefore this House cannot take any Cognizance of it.

| | | |
|--------------------|---------------------|---------------------|
| <i>Leeds,</i> | <i>Weymouth,</i> | <i>Rochester,</i> |
| <i>Townsend,</i> | <i>N. Duresme,</i> | <i>Dartmouth,</i> |
| <i>Nottingham,</i> | <i>The. Roffen,</i> | <i>Jonat. Exon.</i> |
| <i>W. Carliel,</i> | <i>Poulett,</i> | |

Die Lunæ 22^o Februarii, 1702.

Hodie 2^a vice lecta est Billa, entitled, an Act for providing, that no Persons shall be chose Members of *the House of Commons* but such as have sufficient real Estates.

Then a Debate arising, whether this Bill shall be committed,

| | | | |
|-----------|----|------|---|
| Contents | 34 | } 39 | The Question was put, whether this Bill shall be committed ? |
| Proxies | 7 | | |
| Not Cont. | 36 | } 46 | It was resolved in the Negative. |
| Proxies | 10 | | |

Dissentient,

Because the Design of that Bill was for hindering of Foreigners, and Men of little or no Estate, from being capable of taxing and disposing of the Rights and Estates of all *England*, and might have received any reasonable Alterations at a Committee, which should have been judged convenient.

| | | |
|------------------------|--------------------|---------------------------|
| <i>De Longueville,</i> | <i>Scarsdale,</i> | <i>Townshend,</i> |
| <i>Cholmondeley,</i> | <i>Warrington,</i> | <i>Normanby, C. P. S.</i> |
| <i>Weymouth,,</i> | <i>Lindsey,GC.</i> | <i>Denbigh,</i> |
| <i>Stawell,</i> | <i>Dartmouth,</i> | <i>Kent,</i> |
| <i>Plymouth,</i> | <i>Lempster,</i> | <i>Poulett,</i> |
| <i>Sandwich,</i> | <i>Barnard,</i> | <i>Abingdon.</i> |
| <i>Carnarvon,</i> | <i>Nottingham,</i> | |

Die Mercurii 24^o Februarii, 1702.

A long Report was made from the Committee appointed to draw up what was offered at the free Conference, upon the Bill for preventing *Occasional Conformity*.

And it being proposed to print this Report, and the said Bill, with the Amendments made by the Lords, and their Proceedings thereupon,

The Question was put, whether the Bill entitled, An
An

Act for preventing Occasional Conformity, and the Amendments made by the Lords to the said Bill, and their Reasons for those Amendments: and the Commons Reasons, and the Report of the free Conference thereupon, shall be printed and published?

It was resolved in the Affirmative.

Dissentient

Because the printing of Bills, and the Proceedings on Bills, was never done, and therefore is unparliamentary.

'Tis an appealing to the People, and giving them a Pretence of Right to examine and judge of the Parliament, which otherwise would be unlawful and this Practice may be of pernicious Consequence to the Peace of the Kingdom, and highly derogatory to the Honour and Dignity of *the House of Lords*.

| | | |
|-----------------------|-------------------|------------------|
| <i>Lindsey, G. C.</i> | <i>Sandwich,</i> | <i>Denbigh,</i> |
| <i>Nottingham,</i> | <i>Dartmouth,</i> | <i>Weymouth.</i> |

Die Martis 21^o Martii, 1703.

Hodie 3^a vice lecta est Billa, entitled, An Act for raising Recruits for the Land Forces and Marines, and for dispensing with Part of the Act for the Encouragement and Increase of Shipping and Navigation, during the present War.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

Because there is in this Bill the following Clause, *viz.* (That it shall and may be lawful for the Justices of the Peace of every County and Riding within this Realm, or any three or more of them, to raise and levy such able-body'd Men, as have not any lawful Calling or Employment, or visible Means for their Maintainance or Livelihood, to serve as Soldiers, for the Purposes in the Bill mentioned.)

| | | |
|--------------------|--------------------|-----------------------------|
| <i>Dartmouth,</i> | <i>Haversham,</i> | <i>Tbanet,</i> |
| <i>Anglesey,</i> | <i>Nottingham,</i> | <i>Rocheſter,</i> |
| <i>Gower,</i> | <i>H. London,</i> | <i>Conway,</i> |
| <i>Torrington,</i> | <i>Guilford,</i> | <i>Geo. Bath and Wells,</i> |
| <i>Lempſter,</i> | <i>Crewe,</i> | <i>Abingdon,</i> |
| <i>Stawell,</i> | <i>Granville,</i> | <i>Poulett.</i> |
| <i>Guernſey,</i> | | |

Die

Die Veneris 24^o Martii, 1703.

After Debate upon the first Narrative made by Sir *John Maclean*, to the Earl of *Nottingham*, and several Questions proposed relating thereto,

This Question was stated, *viz.* That that Part of the Narrative relating to Sir *John Maclean*, and the Papers relating to his Examination, taken by the Earl of *Nottingham*, and laid before the Queen, the Cabinet-Council, and this House, are imperfect. Then,

Contents 30
Not Cont. 41

The previous Question was put, whether this Question shall be now put?
It was resolv'd in the Negative.

Dissentient'

Because the main Question seems to us to be the lightest Censure that can be passed on the Account of Sir *John Maclean's* Discovery laid before the Queen, the Cabinet-Council, and this House, by the Earl of *Nottingham*, which we conceive is very defective, as well in the Substance of it, as in the Form and Manner in which it was taken: It is not writ by his own Hand, nor so much as signed by him.

There is no Mention made of what Questions were put to him, or of his Answers thereunto.

There is no Notice taken of his Negotiations with the Ministers of the Court of *St. Germans*, who were all acquainted with this Conspiracy, as Sir *John Maclean* has given in under his own Hand-writing to the Lords Committees, which he acquainted them he had told to the Earl of *Nottingham*.

This Omission is of the greatest Consequence, in our Opinion, because the Papers given in by *Ferguson* and *Lindsay* seem contrived to make it believed that the Court of *St. Germans* have no Design to disturb her Majesty's Government during her Reign, and that the Earl of *Middleton* does all he can to prevent Conspiracies or Designs against her.

Sir *John Maclean*, also informed the Lords Committees of the Correspondence intended to be carried on between him and the Earl of *Perth*; as also of the Correspondence to be settled by *Frazier* and *Murray*, of which

which he was to be informed by *Robert Murray*, and which he told the Lords of the Committee, he had acquainted the Earl of *Nottingham* of; and yet there is no Notice taken of it in the said Account laid before the House.

It being moved by some Lords that were against the main Question, that Sir *John Mactean* should be sent for to the Bar, and be heard as to the Particulars objected to the said Account, and seconded and agreed to by other Lords that were for the Question, that he should be brought to clear the Matter.

The Motion for sending for him was waved, and the previous Question insisted upon.

| | | |
|------------------------|--------------------|--------------------|
| <i>Somerſet,</i> | <i>Batton,</i> | <i>Sunderland,</i> |
| <i>Terrington,</i> | <i>Mobun,</i> | <i>R. Grey,</i> |
| <i>Scarborough,</i> | <i>Manchester,</i> | <i>Herbert,</i> |
| <i>Summers,</i> | <i>Halifax,</i> | <i>Effex,</i> |
| <i>Oxford,</i> | <i>Gi. Sarum,</i> | <i>Rockingham,</i> |
| <i>Carlisle, E. M.</i> | <i>Stamford,</i> | <i>T. Wharton,</i> |
| <i>Rivers,</i> | <i>Bergevenay,</i> | <i>Richmond.</i> |
| <i>Darby,</i> | | |

Die Martis 17^o Januarii, 1704.

A Bill entitled, *An Act to enable William Henry Earl of Bath, during his Minority, to execute the Power of making Leases of his settled Estate*, being offered to be read; and a Debate arising thereon,

Contents 46 After Debate, the Question was put,
Not Cont. 19 whether the Bill offered shall be now read?

It was resolved in the Negative.

Dissentient

For that the main Foundation, and greatest Motive for the legislative Authority to intermeddle in the Settlement of private Mens Estates, is the Desire and free Consent of all Parties concerned in the said Settlement first had and obtained, and the Lord *Granville*, next Heir to the present Earl of *Bath*, having, in his Place in this House, declared that he conceived his Interest, in that Estate, to be prejudiced by this Bill, and that he could by no means give his Consent to it.

We do therefore humbly conceive, the receiving
this

this Bill to be contrary to the usual Method of Proceeding in all Bills of this Nature ; and therefore ought not to have been received.

*Winchelsea, Rochester, Nottingham,
Craven, Buckingham, C. P. S. Guilford.
Granville, Warrington,*

Die Veneris 2^o Martii, 1704.

Hodie 3^a vice lecta est Billa, entitled, An Act for the better recruiting her Majesty's Land-forces and the Marines for the Year One thousand seven hundred and five.

The Question was put, whether this Bill shall pass ?

It was carried in the Affirmative.

Dissentient

Because there is in the Bill this following Clause, *viz.* (That it shall and may be lawful for the Justices of the Peace of every County and Riding within this Realm, or any three or more of them, to raise and levy such able-bodied Men, as have not any lawful Calling or Employment, or visible Means for their Maintainance or Livelihood, to serve as Soldiers, for the Purposes in the Bill mentioned)

Thanet, Anglesey, Dartmouth.

Die Jovis 15^o Novembris, 1705.

The House (according to the Order of the Day) taking into Consideration the State of the Nation, after Debate,

This Question was proposed, *viz.* That an humble Address be presented to her Majesty, that her Majesty will be graciously pleased to invite the presumptive-Heir to the Crown of *England*, according to the Acts of Parliament made for settling the Succession of the Crown in the Protestant Line, into this Kingdom, to reside here.

Then the previous Question was put, whether this Question shall be now put ?

It was resolved in the Negative.

Dissentient

Because we humbly conceive, the having a presumptive-Heir to the Crown residing within the Kingdom, would be a great strengthening of her Majesty's Hands in
the

the Administration of the Government, a Security of her Royal Person, and of the Succession to the Crown, as by Law established, in the Protestant Line.

| | | |
|--------------------|-------------------|----------------|
| <i>Winchelsea,</i> | <i>Anglesey,</i> | <i>Howard,</i> |
| <i>Jersey,</i> | <i>Haversham,</i> | <i>Conway,</i> |
| <i>Buckingham,</i> | <i>Rocheſter,</i> | <i>Leigh.</i> |
| <i>Nottingham,</i> | <i>Abingdon,</i> | |

Die Lunæ 3^o Decembris, 1705.

Hodie 3^a vice lecta eſt Billa entitled, An Act for the better Security of her Maſteſty's Perſon and Government, and of the Succeſſion to the Crown of *England* in the Protestant Line.

A Rider was offered to be added to the Bill to reſtrain the Lords Juſtices from giving the Royal Aſſent to any Bill for repealing or altering the Act 31 *Caroli Secundi*, called *The Habeas Corpus Act*; the Act called, *The Toleration Act*; that called, *The Triennial Act*; and the Act for regulating Trials in Caſes of Treason.

And the ſame being read,

After Debate, the Queſtion was put, whether this Rider ſhall be read a ſecond Time?

It was reſolved in the Negative.

Dissentient'

Beauſe, we conceive, theſe Acts, mentioned in the foregoing Rider, are as neceſſary for the Preſervation of the Protestant Religion, and the Rights and Liberties of the Subjects of *England*, as the Act of Uniformity, in the Opinion of the Houſe itſelf, is for the Preſervation of the Church of *England*

| | | |
|---------------------|-------------------|-----------------------------|
| <i>Beauford,</i> | <i>Carnarvon,</i> | <i>Buckingham,</i> |
| <i>Scarsdale,</i> | <i>Thanet,</i> | <i>Weymouth,</i> |
| <i>Haversham,</i> | <i>Anglesey,</i> | <i>Nottingham,</i> |
| <i>Northampton,</i> | <i>Rocheſter,</i> | <i>North and Grey,</i> |
| <i>Guilford,</i> | <i>Granville,</i> | <i>Geo. Bath and Wells.</i> |
| <i>H. London,</i> | <i>Guernsey,</i> | |

'Then, after further Debate, the Queſtion was put, whether this Bill ſhall paſs?

It was reſolved in the Affirmative.

Dissentient'

1^{ſt}, Beauſe it having been our humble Opinion, that nothing can ſo firmly ſecure the Succeſſion to this Crown
in

Protestant Line, as the presumptive Heir's residing Kingdom, and our Proposal of an humble Address to her Majesty for that Purpose having been refused, the Bill also being founded on the said Heir's being present at the Time of the Queen's Demise, we fear it may prove not only ineffectual to these good Ends for which it is designed, but dangerous also in delaying the said Heir's coming hither, in the mean while by the Opinion some have of the Successor's being secured, that no such further Care needs to be about it.

2. Because every one of the seven Lords Justices, created by this Bill, is therein made so far independent of the very Successor, as not to be displaced by the Successor in that Instrument, which is to be deposited for the Addition of more Lords Justices; the Reason for which Addition we think equally strong, by obliging also the Successor to exclude, by the said Instrument, any of those seven Justices; which said Justices may otherwise be found (when perhaps it will be too late) invested with too great a Power, if they can ever be used capable of ill employing it.

3. Which last Objection we conceive to be of more weight, since it was refused by the House to restrain future Lords Justices from repealing the following Acts, *viz. An Act for preventing Dangers which may arise from Popish Recusants; and An Act for the more effectual preserving the King's Person and Government, disabling of Papists from sitting in either House of Parliament; the Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas; the Act for the further Security of his Majesty's Person, and the Succession of the Crown in the Protestant Line, and for extinguishing the Hopes of the pretended Prince of Wales, all other Pretenders, and their open and secret Abettors; the Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws; the Act for the freer meeting and calling of Parliaments; and the Act regulating of Trials in Cases of Treason and Misprision of Treason; which Laws we account the very Pillars of our Constitution, and that consequently no Subjects*
 what-

Whatsoever ought to be intrusted with the Power of passing any Act to repeal them, during the Time, when it will be impossible for the Successor to know any thing of the Matter, or so much as that the said Successor is become our Sovereign.

4thly, Because in this very Bill, which intrusts the Lords Justices with a Power of giving the Royal Assent to Laws of so dangerous a Nature, and with all the executive Power, yet, we conceive, they are restrained from revoking the least military Commission, or disbanding any Officer of the Army, tho' never so much deserving to be suspected by them.

Lastly, We apprehend the great Danger her Majesty may be exposed to, since whatever is insufficient to secure the Succession in the Protestant Line, and may render it liable to Difficulties or Incertainties, must also encourage ill Designs against her sacred Life; which may be thought the only Obstacle in the Way of such wicked Persons, who may flatter themselves with the Hopes of Confusions after it.

Beaufort,

Buckingham,

Nottingham,

Carnarvon,

Anglesey,

Thanet.

Denbigh,

Haverham,

I dissent for the four last Reasons,

Granville.

And I also, *North and Grey.*

And I also, *Guernsey.*

Die Jovis 6. Decembris, 1705.

Upon Report from the Committee of the whole House appointed to take into Consideration her Majesty's Speech at the Opening of the Parliament, that they were come to the following Resolution, *viz.*

That it is the Opinion of the Committee, that *the Church of England*, as by Law established, which was rescued from the extremest Danger by King *William the Third*, of Glorious Memory, is now, by God's Blessing, under the happy Reign of her Majesty, in a most safe and flourishing Condition; and that whoever goes about to suggest and insinuate, that the Church is in Danger under her Majesty's Administration, is an Enemy to the Queen, the Church, and the Kingdom.

The

Contents 61 **The Question** was put, whether this
Not Cont. 30 **House** shall agree with the Committee
 in this Resolution?

It was resolved in the Affirmative.

Dissentient

1st, Because, we humbly conceive, there may be Dangers to the Church always impending on several Accounts: The Prayer set forth to be used on the solemn Fast Days, under the Head of a *Prayer for Unity*, imploring God Almighty's Grace, that every-body may seriously lay to Heart the great Dangers we are in, by our unhappy Divisions, shews plainly, that in the Opinion of the Compilers of that Form of Prayer, and in her Majesty's Royal Judgment, who commands it to be used in all the Churches and Chapels throughout *England* and *Wales*, there are very great Dangers.

2^{dly}, We humbly conceive there may be very great Dangers to the Church from abroad, where a Person pretending to this Crown is publicly owned and maintained as King of *England*? and we humbly conceive the Church in Danger likewise from a neighbouring Kingdom, which tho' under her Majesty's Sovereignty, during her Life (which God long preserve) hath not by any Means yet been induced to settle the same Succession to the Crown, as is established by Law in this Kingdom, in the Protestant Line; but on the contrary, that Succession has been abrogated by the Act of Security, which with several other Acts lately passed in that Kingdom, has been judged by this House, in the last Session, to be dangerous to the present and future Peace of this Kingdom; and therefore we may justly fear, there are Dangers from hence both to our Church and State.

3^{dly}, We humbly conceive there may be very great Danger to the Church for Want of a Law to prevent any Persons whatsoever from holding Offices of Trust and Authority, both in Church and State, who are not constantly of the Communion of the Church established by Law; and therefore on Account of the unhappy Divisions in the Kingdom, in Points of Religion and Divine Worship, as also on the Account of the Calamity of this Age, in the too publick and common disowning any Religion at all.

4thly, Though we have an entire Confidence in her Majesty's great Zeal and Piety to the Church, we dare not in Duty to her Majesty's Person, and to the Service of her Government, condemn all such as may have Fears in Relation to the Preservation of the Church and Safety of the Crown.

Lastly, Being sincerely convinced, that these Reasons, among some others mentioned in the Debate, are sufficient to justify our Fears, we humbly conceive, that it is not a proper Way to prevent Dangers, by voting there are none.

| | | |
|----------------------|-----------------|--------------|
| Buckingham, | Beaufort, | Northampton, |
| Thanet, | Abingdon, | Weymouth, |
| H. London, | Osborne, | Howard, |
| Granville, | Guernsey, | Leeds, |
| Denbigh, | Winchelsea, | Carnarvon, |
| Rocheſter, | Angleſey, | Chandos, |
| Guilford, | Scarſdale, | Nottingham, |
| Conway, | North and Grey, | Craven. |
| Geo. Bath and Wells, | | |

I diſſent for the firſt, ſecond and fourth Reaſons.

Haverſham.

Die Lunæ 3^o Februarii, 1706.

The Bill for *ſecuring the Church of England, as by Law eſtabliſhed*, having been this Day read a ſecond Time, and committed to a Committee, of the whole Houſe,

After Debate, the Queſtion was put, that
 Contents 33 it be an Inſtruction to the ſaid Com-
 Not Cont. 60 mittee, to inſert in the ſaid Bill, as a
 fundamental Condition of the inten-
 ded Union, particular and expreſs Words, declaring
 perpetual and unalterable an Act of Parliament made in
 the Five and Twentieth Year of King Charles II. entitled,
*An Act for preventing Dangers which may happen from
 Popiſh Recuſants?*

It was reſolved in the Negative.

Diſſentient'

We conceive, that this Act deſerves to be particular-
 ly mentioned, and not left to doubtful Conſtructions, be-
 cauſe as it was at firſt made to ſecure our Church, then
 in Danger by the Concurrence of Popiſts and Diſſenters

to destroy it, so we have found by Experience, both in the Reign of King *Charles II.* and King *James II.* that it was the most effectual Means of our Preservation, by removing from their Employments the greatest Enemies of our Church ; and particularly in the Reign of the late King *James*, the assuming of a dispensing Power, and the illegal Practices, by closetting and corrupting the Members of Parliament, were chiefly levell'd against this Test Act.

Northampton

Tbanet,

Scarsdale,

Jo. Ebor',

Rochester,

Anglesey,

H. London,

North & Grey,

Buckingham,

Tbo. Roffen',

Guilford,

Cestriens',

Ashburnham,

Beaufort,

Nottingham,

Craven,

N. Dunelm,

Granville,

Starwell,

Guernsey,

Howard,

Suffex,

Weymouth.

Die Jovis 27^o Februarii, 1706.

Report was made from the Committee of the whole House, to whom was referred the Consideration of the Articles of Union with *Scotland* ; and the said Articles being read, the same, upon the Questions, were severally agreed to and resolved on by the House.

Dissentient'

To the Ninth Resolution :

Because, we humbly conceive, that the Sum of Forty eight thousand Pounds to be charged on the Kingdom of *Scotland*, as the Quota of *Scotland*, for a Land-Tax, is not proportionable to the Four Shillings Aid granted by the Parliament of *England* : But if, by Reason of the present Circumstances of that Kingdom, it might have been thought it was not able to bear a greater Proportion, at this Time, yet we cannot but think it unequal to this Kingdom, that it should be agreed, that when the Four Shillings Aid shall be enacted by the Parliament of *Great-Britain* to be raised on Land in *England*, that the Forty eight thousand Pounds now raised in *Scotland* shall never be increased in no Time to come, though the Trade of that Kingdom should be extremely improved, and consequently

by the Value of their Land proportionably raised, which in all Probability it must do, when this Union shall have taken Effect.

North and Grey, Howard, Guilford,
Rochester, Leigh.
Dissentient,

To the Fifteenth Resolution :

Because we humbly conceive, nothing could have been more equal on this Head of the Treaty, than that neither of the Kingdoms should have been burthened with the Debts of the other, contracted before the Union ; and if that Proposal, which we find once made in the Minutes of the Treaty, had taken Place, there would have been no Occasion to have employ'd the Revenues of the Kingdom of *Scotland* towards the Payment of the Debts of *England*, those Revenues might have been strictly appropriated to the Debts of that Kingdom, and to any other Uses within themselves, as should have been judged requisite, and there would have been then no Need of an Equivalent of very near Four hundred thousand Pounds to be raised on *England*, within this Year, for the Purchase of those Revenues in *Scotland* ; which however it may prove to be but a reasonable Bargain upon a strict Calculation, there does not seem to have been a Necessity just now to have raised so great a Sum, when this Kingdom is already burthened with so vast ones, for the necessary Charges of the War.

Rochester, North and Grey, Leigh,
Guilford,
Dissentient

To the Two and twentieth Resolution :

Because, we humbly conceive, in the first Place, that the Number of Sixteen Peers of *Scotland* is too great a Proportion to be added to the Peers of *England*, who very rarely consist of more than One hundred attending Lords in any one Session of Parliament ; and for that Reason, we humbly apprehend, such a Number as Sixteen may have a very great Sway in the Resolutions of this House, of which the Consequences cannot now be foreseen : In the second Place, we conceive, the Lords of *Scotland*, who by Virtue of this Treaty, are to sit in this House, being not qualified as the Peers of *England* are, must suffer a Diminution of their Dignity to sit
 here

here on so different Foundations, their Right of sitting here depending intirely on an Election, and that from Time to Time, during the Continuance of one Parliament only ; and at the same Time we are humbly of Opinion, that the Peers of *England*, who sit here by Creation from the Crown, and have a Right of so doing in themselves, or their Heirs, by that Creation for ever, may find it an Alteration in their Constitution, to have Lords added to their Number, to sit and vote in all Matters brought before a Parliament, who have not the same Tenure of their Seats in Parliament as the Peers of *England* have:

North and Grey, Leigh, Rochester.
Buckingham, Guilford,

We dissent to the Resolution of passing the last Article.

Because, there being no Enumeration of what Laws are to be repealed, it is conceived too great a Latitude of Construction thereupon is left to the Judges.

Rochester, North and Grey, Guilford,
Leigh,

Die Martis 4^o Martii, 1706.

Hodie 3^a vice lecta est Billa, entitled, An Act for an Union of the two Kingdoms of *England* and *Scotland*,
 The Question was put, whether this Bill shall pass ?

It was resolved in the Affirmative.

Dissentient

Because the Constitution of this Kingdom has been found so very excellent, and therefore justly applauded by all our Neighbours, for so many Ages, that we cannot conceive it prudent now to change it, and to venture at all those Alterations made by this Bill, some of them especially being of such a Nature, that as the Inconvenience and Danger of them (in our humble Opinion) is already but too obvious, so we think it more proper and decent to avoid entering farther into the particular Apprehensions we have from the passing of this Law.

Beaufort, Stanwell, Guilford,
Buckingham, Granville, Leigh.

Die Sabbati 7^o Februarii, 1707.

Hodie 3^a vice lecta est Billa, entitled, An Act for rendering

dering the Union of the two Kingdoms more entire and complete.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the Clause of this Bill, which relates to the Privy-Council, determines the Privy-Council of *Scotland*, so soon as the first Day of *May* next, by which Time the Provision made in the same Bill, instead of the Privy-Council, for the Security of the Peace by appointing Justices of the Peace, to be constituted under the great Seal of *Great-Britain*, in the several Counties of *Scotland*, cannot be expected to take Effect; and therefore we conceive, that if that Clause had been framed so as not to take Place till the first of *October* next, as was proposed, the Privy-Council of *Scotland* had been abolished, as certainly as by the present Bill, and with more Security to the Peace and Tranquility of that Part of the United Kingdom.

2^{dly}, Because the Clause in the Bill which appoints the Commissions and Powers to the Justices of the Peace, authorizes those Justices to proceed against Offenders during the first fifteen Days after the Crime committed; and that in the Liberties of Heritable Offices and Officers for Life, which, at the Time of the Union of the two Kingdoms, the Justices of the Peace (and all ordinary Officers and Ministers of Justice) were by Law excluded from doing; and therefore we apprehend, that the last mentioned Clause in the Bill might be constructed to be an Incroachment upon the 20th Article of the Union, and by that Means be the Occasion of raising great Jealousies and Discontents throughout that Part of the United Kingdoms.

| | | |
|----------------|--------------|-----------------|
| Cowper, C. | Marlborough, | J. Bridgewater, |
| Jonat. Winton, | Mar, | Seafeld, |
| Herbert, | Berkeley, | Cholmondeley, |
| Crawford, | Lothian, | Greenwich, |
| Rivers, | Loudoun, | Stair, |
| Ilay, | Glasgow, | Godolphin, |
| Pembroke, | Radnor, | Somerset, |
| Wemyss, | Cardigan, | Leven. |
| Roseberie, | | |

Die Martis 15^o Martii, 1708.

Hodie 2^a vice lecta est Billa, entitled, An Act for Naturalizing foreign Protestants

Contents 65

Not Cont. 20

After Debate, the Question was put, whether this Bill shall be committed?

It was resolved in the Affirmative.

Dissentient,

Because we humbly conceive, that this Bill of general Naturalization will be very prejudicial to the Trade and Manufactures of this Nation, and may be of ill Consequence to our Liberties and Religion.

Buckingham,

Gernsey,

Scarsdale,

Thanet,

North and Grey,

Anglesey,

Guilford,

Nottingham,

Die Lunæ 28^o Martii, 1709.

Hodie 3^a vice lecta est Billa, entitled, An Act for improving the Union of the two Kingdoms.

A Rider was offered to be added to the Bill, which was read as follows :

(Provided always, and be it enacted by the Authority aforesaid, that no Person shall be tryed for High-Treason, or Misprison of High-Treason, unless a Copy of his Indictment, together with all the Witnesses Names endorsed upon it, as it shall come from the Grand-Jury, shall be delivered to the Prisoner five Days at least before the Trial of the said Prisoner.)

Contents 25

Not Cont. 40

Then the Question was put, whether this Rider shall be read a second Time?

It was resolved in the Negative.

Dissentient,

We conceive it not for the Safety of the Subject, that the Names of those Witnesses, which shall appear endorsed on the Indictment, when it comes from the Grand-Jury, shall be concealed from the Prisoner, who, by receiving Notice of such Witnesses, five Days before his Trial, may be enabled to discredit them, if he be innocent, and yet not enabled to escape in Case he be guilty.

| | | |
|---------------------|---------------------|-------------------|
| <i>Backingham;</i> | <i>Anhandale,</i> | <i>Denbigh,</i> |
| <i>Peterbrough,</i> | <i>Crafurd,</i> | <i>Mar,</i> |
| <i>Dover,</i> | <i>Roseberie,</i> | <i>Poulett,</i> |
| <i>Guilford,</i> | <i>Scarborough,</i> | <i>Gi. Sarum,</i> |
| <i>Greenwich,</i> | <i>Hamilton,</i> | <i>Montrose,</i> |
| <i>Scarsdale,</i> | <i>Roths,</i> | <i>Roxburghe,</i> |
| <i>Loudoun,</i> | <i>Warrington,</i> | <i>Wemyss,</i> |
| <i>Seafeld,</i> | <i>Ilay,</i> | <i>Orkney.</i> |

Then the Question was put, whether this Bill shall pass ?

It was resolved in the Affirmative.

Dissentient

We humbly take Leave to protest against the Title, Preamble and Body of this Bill, for the Reasons following :

1st, We conceive the general Title of this Bill very improper, because it does not express the particular Purposes of it, which are altering the Laws of the Northern Part of *Britain*, and the Method of Trials in Matters relating to Treason ; and because we apprehend, this Act will be so far from answering its Title of improving the Union, that we are humbly of Opinion and sincerely persuaded, it may have a quite contrary Effect.

2^{dly}, The Preamble of this Bill may happen to give unnecessary Grounds of Suspicion, to mistaken People, that there is a Tendency towards a total Alteration of the Laws of *Scotland*, which cannot but create great Uneasiness to that People, who rested in a Confidence, that their private Laws were secured to them by the Articles of the Union, so as not to be altered without the evident Utility of the People of *Scotland*.

3^{dly}, It does not appear to be necessary, that new Courts and Jurisdictions should be created in a Country where the Courts of Justiciary were to be preserved in the Exercise of their Authority by the Articles of the Union, though it might be thought reasonable, that the same Facts and Offences might be esteemed Treason and Misprison of Treason, and that the Punishments might be likewise the same ; and we do humbly conceive, that the Commissions of *Oyer* and *Terminer* may be construed an impairing of the Authority of the Courts of Justiciary in *Scotland*, and the entire Alteration of the Methods

Methods of Trials may render it very difficult to prosecute any Person for the Crimes of Treason, and very insecure for the People, who are to make their Defence in unknown Methods.

4^{thly}, The General Description of Treason in this Act, without specifying either the particular Facts that shall be accounted Treasonable, or the particular Laws to be established in both Kingdoms, is a just Exception against the Bill; for it would have been a great Satisfaction to the People of North *Britain*, if these Laws had been revived in a Parliament where their Representatives might have had the Time to have examined the Reasonableness of them, and had a Share in the passing them; but the enacting all the Laws in gross, as the Laws of *England*, without entering into any Detail or Consideration of them, may create great Uneasiness.

5^{thly}, The present Laws of *Scotland*, in relation to the Forfeitures, ought to have been considered as established upon the most solid Foundations, since they were settled upon the Tender of the Crown to King *William*, and accordingly passed into Laws at that Time, which the Subjects might well conclude they should never be deprived of: But the *Proviso* in this Act relating to Marriage Settlements is only a Remedy in part, and but a Share of the just Provisions made on behalf of the Subjects in that remarkable and happy Revolution, which so much improved the Constitution of both Kingdoms.

Lastly, We conceive, that whereas the Qualification for a Jury-man to be sworn upon the Pannel is by this Act affixed to the Possession of forty Shillings *per Ann.* it ought to have been kept up to what the Law of *England* now ordains in Trial, which is, that the Jury-man be seized of ten Pounds *per Annum* in his own Right, or that of his Wife's.

Buckingham,
Annandale,
Roseberie,
Seafeld,
Crafurd,
Dover,
Mentros,

Guilford,
Denbigh,
Loudoun,
Orkney.
Roths,
Greenwich,
Roxburghe.

Gi. Sarum,
Mar,
Peterborow,
Wemyss,
Ilay,
Hamilton.

Die Martis 14^o Martii, 1709.

Report was made from the Committee appointed to inspect into Precedents of Impeachments concerning High-Crimes and Misdemeanors, and some of the Precedents being read at large.

After Debate, the Question was put, by
 Contents 65 the Law and Usage of Parliament in
 Not Cont. 47 Prosecutions, by Impeachments for
 High-Crimes and Misdemeanors by
 Writing or Speaking, the particular Words supposed to
 be Criminal are not necessary to be expressly specified in
 such Impeachments?

It was resolved in the Affirmative.

Dissentient

1st, Because, we conceive, the Law of the Land is as much the Rule of Judicature in Parliament, as it is in the inferior Courts of Justice; and since by the Opinion of all the Judges in all Prosecutions by Information or Indictment for Writing or Speaking, the particular Words, supposed to be Criminal, must be expressly specified in such Informations or Indictment; and that this is the Law of the Land, confirmed by constant Practice; we conceive, that there is the same Reason and Justice for specifying in Impeachments the particular Words supposed to be Criminal, for otherwise a Person who is innocent and safe by the Law, out of Parliament, may nevertheless be condemned in Parliament.

For we conceive, that some Reasons of Law and Justice, why the Words supposed Criminal must be specified in Informations and Indictments, may be, that the Party accused may certainly know his Charge, and be thereby enabled to defend his Innocence; that the Jury may know it too, and be enabled thereby the better to apply the Evidence given by the Witnesses to the Matter of such Charge; and that the Judges themselves may the better judge of the Nature of the Crime, and of a Punishment adequate to it; which in Cases of Misdemeanors, which are indefinite and innumerable, must extremely vary, according to the Heinousness of the Offence; and finally, that the House of Lords, upon Complaint to them, may also judge whether the Fine, which

is usually one of the Punishments for Misdemeanors, do not exceed the Demerit, especially since by the Bill of Rights, exorbitant Fines are declared to be illegal ; which Reason seems to be fully as strong, in the Case of Impeachments, as in Indictments and Informations : For the particular Words are as necessary to enable the Lords to determine uprightly and impartially, as the Jury or Judges, and as necessary for the Defence of the accused here, as in the Courts below ; and if there were to be a Difference, it seems more necessary in this High-Court, for the weightier the Prosecution is, the more Need has an unfortunate Man of Indulgence and all lawful Favour ; and surely there cannot be a heavier Load upon a Man, than an Accusation by all the Commons of *Britain*.

2dly, We do not remember any Precedent insisted on for the Maintenance of this Resolution, save only the Case of *Dr. Manwaring*, which, we conceive, could not warrant this Resolution : For,

1. The Words charged upon him by the Commons Declaration were not compared with the Sermons though it was desired, and consequently no Lord could say, they were not the Words of the Sermon ; and, therefore, upon such Incertainty, we conceive, we could not ground a positive Resolution.

2. The Charge upon him taken out of his Sermon, on the fourth of *May* 1628, seems to be the very Words by him spoken, for they were attested by Far-witnesses, who surely never were or could be admitted to attest their own Conjectures of the Scope of a Sermon, and not specify the very Words, for that would be to make the Witnesses to be the Judges.

3. Besides, in such a Case as this, where the Party did not insist upon any legal and just Exception, of which he might have taken Advantage, if he had made his Defence, which he did not, but submitted and beg'd Pardon ; this ought not to be looked upon as a Precedent or Authority to justify the Illegality of the Form of that Impeachment.

3dly, But altho' this Precedent were full, and express to the Point resolved, we humbly conceive, that our *Precedent is not sufficient to support a Law and Custom*
of

of Parliament, nor consequently a Resolution declaring it; for surely there is great Difference between a single Instance and a Law and Custom.

4^{thly}, Especially since, we conceive, that in all the Precedents, at least all that have appeared to us, for four hundred Years, of the Prosecutions in Parliament, the particular Words charged as Criminal have been constantly expressed in the Articles, or Declarations of Impeachments.

E. 2. *Exilium Hugonis de le Spencer Patris & Filii*, the first Article was, For making a Bill in Writing, the Tenour whereof was particularly set forth.

28. H. 6. *William de la Pool*, sixth Article was, for Words spoken by him sitting in the Council in the *Star-Chamber*, viz. That he said, (He had a Place in the Council-House of the *French King*, as he had here, and was as well trusted as he was here; and could remove from the *French King* the priviest Man of his Council if he would.)

Lord Finch.

The Opinions he delivered are set forth in *hæc Verba*, as also the Times when he delivered them.

Another Opinion delivered by him in the *Exchequer Chamber*, and *Western Circuit*, is set down in his express Words.

Doctor Cosens.

He is charged with Words delivered in a Sermon at *Durham*; the Words are these, *The Reformers*, &c.

Articles 19. Charges him with Words in like manner; the Words were these, *The King*, &c.

1641. *Berkeley*.

Article 1. The Words charged upon him are expressly mentioned.

4 and 5. That he subscribed an Opinion in *hæc Verba* which are specified.

6. The Matter therein charged, though of Record, was copied and delivered with the Articles.

7 and 8 The Words spoken, and the Place expressly set forth.

1641.

Judge Crawley.

Articles,

For subscribing and giving Opinions, set

1, 2, 3.

set forth in *hæc Verba*.

Herbert.

1641. *Herbert.*

For exhibiting Articles against the five Members, which Articles follow in these Words, &c.

1641. Thirteen Bishops impeached for making and promulging, in 1640, several Constitutions and Canons, contrary to the King's Prerogative, &c.

They demurred because the Charge was general, but receded from this Demurr, because it appeared to be particular.

1641. *E. Stafford.*

Article 2. Expresses the Words spoken by him, and the Time.

4. 20, 21, 22, 23, 24, 25, 27. expresses the very Words spoken by him.

26. Is in like Manner with an Innuendo of his Meaning.

1642. *Archbishop Laude.*

Ar. 1, 4, 10. Expresses the Words spoken by him.

2. Expresses the Words spoken by him, and the Time and Place.

So necessary did the long Parliament itself think it, to pursue the Forms of Law in all their Prosecutions.

Upon the whole therefore, we humbly conceive, that so great a Number of Precedents is sufficient to outweigh the single Instance of Dr. *Manwaring's* Case, how opposite soever it may seem to be to the present Case, which, for the Reasons we have mentioned, is far from being plain and clear, or having the full Authority of a Precedent; and the Law and Custom of Parliament, as we conceive, is to be determined by constant Course and Practice, and not one Precedent, occasioned by so odious Doctrines as those of Dr. *Manwaring*; nor can the contrary Assertion to the abovesaid Resolution be of any ill Consequence to Impeachments by the Commons, because 'tis easy for them to specify the Words which offend them, but extremely difficult for the Accused to defend himself without knowing them; and as all, who are charged criminally, have leave to make their Defence, so they should also have allowed to them all lawful Means for it.

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|------------------------|-----------------------------|------------------|
| <i>Jo. Ebor',</i> | <i>N. Duresme,</i> | <i>Suffex,</i> |
| <i>Scarsdale,</i> | <i>Plimouth,</i> | <i>Ferrers,</i> |
| <i>Beaufort,</i> | <i>Denbigh,</i> | <i>Yarmouth,</i> |
| <i>Berkshire,</i> | <i>Rochester,</i> | <i>Weymouth,</i> |
| <i>Scarborough,</i> | <i>W. Cestriens',</i> | <i>Starwell,</i> |
| <i>Conway,</i> | <i>Guilford,</i> | <i>Lempster,</i> |
| <i>H. London,</i> | <i>Gernsey,</i> | <i>Leeds,</i> |
| <i>Thanet,</i> | <i>Nottingham,</i> | <i>Anglesey,</i> |
| <i>Abingdon,</i> | <i>Northampton,</i> | <i>Jersey.</i> |
| <i>North and Grey,</i> | <i>Willoughby de Broke,</i> | <i>Craven.</i> |
| <i>Osborne,</i> | <i>Howard,</i> | |

Die Jovis 16^o Martii, 1709.

The Order of the fourteenth Instant being read, for taking into Consideration the Impeachment of Dr. *Henry Sacheverell*, Article by Article,

And it being moved to declare, That the Commons had made good the first Article against Dr. *Sacheverell*.

After long Debate thereupon, this Question was proposed, That the Commons have made good their first Article of Impeachment against *Henry Sacheverell*, Doctor in Divinity.

Contents 68 And after further Debate thereupon,
Not Cont. 52 this Question was put, whether this
Question shall be now put?

It was resolved in the Affirmative.

Dissentient',

Because, we humbly conceive, there are no Reflections therein contained on the Memory of the late King *William*, nor the Revolution, and that there is no Offence charged therein upon Dr. *Sacheverell* against any known Law of the Land.

| | | |
|----------------------|-----------------------------|-----------------------------|
| <i>Ormonde,</i> | <i>Hamilton,</i> | <i>Berkshire,</i> |
| <i>Leeds,</i> | <i>Suffolke,</i> | <i>Rochester,</i> |
| <i>Scarborough,</i> | <i>Poulett,</i> | <i>Craven,</i> |
| <i>Beaufort,</i> | <i>Weymouth,</i> | <i>Denbigh,</i> |
| <i>Suffex,</i> | <i>Starwell,</i> | <i>Abingdon,</i> |
| <i>Tho. Roffen',</i> | <i>Geo. Bath and Wells,</i> | <i>Anglesey,</i> |
| <i>Thanet,</i> | <i>Sbrewsbury,</i> | <i>Howard,</i> |
| <i>H. London,</i> | <i>Say and Seale,</i> | <i>Berkeley of Stratton</i> |
| <i>Dartmouth,</i> | <i>Jo. Ebor'.</i> | <i>Northampton,</i> |
| <i>Mar,</i> | <i>Lexington,</i> | <i>Plimouth,</i> |
| | | <i>Guilford,</i> |

| | | |
|----------------------|-----------------------------|--------------------|
| <i>Guilford,</i> | <i>Leigh,</i> | <i>Weston,</i> |
| <i>W. Cestriens,</i> | <i>Willoughby de Broke,</i> | <i>Yarmouth,</i> |
| <i>Osborne,</i> | <i>Lempster,</i> | <i>R. Ferrers,</i> |
| <i>N. Duresme,</i> | <i>Buckingham,</i> | <i>Nottingham,</i> |
| <i>N. and Grey,</i> | <i>Jersey,</i> | <i>Conway,</i> |
| <i>Northesk,</i> | <i>Scarsdale,</i> | <i>Chandos,</i> |
| <i>Gernsey,</i> | <i>Haverham,</i> | <i>Wemyss.</i> |

Then the main Question was put, That the Commons have made good their first Article of Impeachment against *Henry Sacheverell*, Doctor in Divinity?

It was resolved in the Affirmative.

Dissentient,

Because by the Laws of the Land, the Laws of Parliament, and the inherent Right of Peerage, every Peer is to judge for himself, both of the Fact as well as of the Law, and cannot be precluded from it by any Majority; which indeed must determine the Case, in Respect of the Criminal, but never did, nor can preclude any Lord from voting the Party accused, *Guilty*, or *not Guilty* of the Fact, as well as of the Crime of such Fact.

| | | |
|-----------------------|----------------------|-------------------------------|
| <i>Leeds,</i> | <i>Suffex,</i> | <i>Yarmouth,</i> |
| <i>Jersey,</i> | <i>W. Cestriens,</i> | <i>Conway,</i> |
| <i>H. London,</i> | <i>Tho. Rossen,</i> | <i>Geo. Bath & Wells.</i> |
| <i>Berkshire,</i> | <i>Lempster,</i> | <i>Beaufort,</i> |
| <i>Denbigh,</i> | <i>Scarsdale,</i> | <i>Astburnham,</i> |
| <i>Tbanet,</i> | <i>Northampton,</i> | <i>Nottingham,</i> |
| <i>Scarborough,</i> | <i>Weymouth,</i> | <i>Rochester,</i> |
| <i>Craven,</i> | <i>Stawell,</i> | <i>R. Ferrers,</i> |
| <i>North and Grey</i> | <i>Plimouth,</i> | <i>Howard,</i> |
| <i>Osborne,</i> | <i>Abingdon,</i> | <i>Gernsey,</i> |
| <i>Leigh,</i> | | |

Die Sabbati 18^o Martii, 1709.

Ordered, that the Question to be put to each Lord in *Westminster Hall* shall be,

Is *Henry Sacheverell*, Doctor in Divinity, guilty of High Crimes and Misdemeanors charged on him by the Impeachment of the House of

Commons; and the Answer thereunto shall be *Guilty* or *Not Guilty* only.

Dis-

Dissentient,

1st, We do humbly conceive, that the obliging every Lord to answer generally, *Guilty*, or, *Not Guilty*, to a Question containing all the Articles of this Impeachment, is a Kind of tacking upon ourselves, by an unnecessary Joining, Matters of a different Nature, and subjecting them to one and the same Determination ; and consequently may prejudice the Right every Peer has to give a free Affirmative or Negative, since whoever thinks Dr. *Sacheverell* guilty of one Part, and innocent of the other, will be obliged either to approve what he condemns, or condemn what he approves.

2^{dly}, We do humbly conceive there is, at least, a Possibility, that though a Majority of the House, if admitted to vote to the Articles separately, may think him innocent upon each Article, yet, by this Method of a general Answer, he may be condemned of all ; which seems not to be consistent with the usual Method of Justice in this House.

3^{dly}, We do humbly conceive, that since the Judgment of the House, in this Case, ought to be a Declaration of the Law, the Condition of the People will be most miserable, to have Punishment inflicted for High Crimes and Misdemeanors, and not to have a Possibility of informing themselves, what the High Crimes and Misdemeanors thereby punished are ; for the People's only Guide is the Law, and they can never be guided by what they can never be informed of : And we do humbly conceive, that this Incertainty being in the Case of a Clergyman for Preaching, it may possibly create some Fears in good Men, when they preach some Doctrines of the Church of *England*, particularly that of Non-resistance ; and may be made use of, by ill ones, as an Excuse for the Neglect of that Duty, which, upon some Occasions, is required of them, even by the Laws of the Land.

Ormonde,
Denbigh,
Weymouth,
Howard,
Geo. Bath and Wells,
Leigh,

Beaufort,
Northampton,
Lempster,
Plimouth,
Abingdon,
Weston,

Rockester,
Craven,
Conway,
Jersey,
Osborne,
Leeds,

Guilford,

| | | |
|-----------------------------|--------------------|------------------------|
| <i>Guilford,</i> | <i>Berkshire,</i> | <i>Haverſham,</i> |
| <i>Willoughby de Broke,</i> | <i>Scarsdale,</i> | <i>Yarmouth,</i> |
| <i>Stawell,</i> | <i>Poulett,</i> | <i>Angleſey,</i> |
| <i>Tbanet,</i> | <i>Nottingham,</i> | <i>H. London,</i> |
| <i>R. Ferrers,</i> | <i>Suffex,</i> | <i>North and Grey,</i> |
| <i>Gernſey,</i> | | |

Die Jovis 11^o Januarii, 1710.

A Petition of *Henry Earl of Gallway*, and another of *Charles Lord Tyrawley* were read, deſiring Time to put in an Answer in Writing, to the Matters contained in the Entry on the Journal of this Houſe of the Ninth Inſtant, before their Lordſhips do proceed to any Determination thereon.

| | | |
|-----------|----|--|
| Contents | 57 | After Debate, reſolved, upon the Queſtion, that the ſaid Petitions be re-jected? |
| Not Cont. | 46 | |

Different

Be cauſe that when a Queſtion was ſtated in the Houſe, which ſeemed to us to import a Censure on the Conduct of the Earl of *Gallway*, Lord *Tyrawley*, and General *Stanbope*, the two Lords, being now in Town, ſhould, we conceive, have been heard in their Defence, before the Queſtion paſſed, though they had not petitioned to put in their Answers; much leſs ought the ſaid Petitions to have been reſected; and we think, that their having been before examined only as to what they remembered concerning the Council of *Valencia*, when they did not know that any, much leſs what Censure was intended upon the Opinions given at that Council, is ſufficient to ſatisfy what we apprehend to be the Rule of natural Juſtice, That every one ſhould have an Opportunity of answering for themſelves, at leaſt upon their humble Petitions, before what we take to be a publick Censure ſhould paſs upon them.

| | | |
|--------------------|---------------------|---------------------|
| <i>Hallifax,</i> | <i>Devonſhire,</i> | <i>Leiceſter,</i> |
| <i>Aſhburnham,</i> | <i>T. Wharton,</i> | <i>Stamford,</i> |
| <i>Mobury</i> | <i>W. Lincoln,</i> | <i>Rockingham,</i> |
| <i>Godolphin,</i> | <i>J. Winton,</i> | <i>J. Ely,</i> |
| <i>W. Carliol,</i> | <i>C. Norwich,</i> | <i>Jo. Landaff,</i> |
| <i>W. Aſaph,</i> | <i>Scarborough,</i> | <i>Beaſford,</i> |
| | | <i>Lincoln,</i> |

| | | |
|--------------------|------------------------|-------------------------------|
| <i>Lincoln,</i> | <i>Dorchester,</i> | <i>Marlborough,</i> |
| <i>Haverſham,</i> | <i>Kent,</i> | <i>Dorſet,</i> |
| <i>Sunderland,</i> | <i>Gl. Sarum,</i> | <i>Jo. Litch' & Cov',</i> |
| <i>Jo. Bangor,</i> | <i>R. Petriburg',</i> | <i>Oxford,</i> |
| <i>Somers,</i> | <i>J. Bridgewater,</i> | <i>Berkeley,</i> |
| <i>Herbert,</i> | <i>Harvey,</i> | <i>Cowper.</i> |

Then it being moved, that the Earl of *Gallway* and the Lord *Tyrawley* (if without) might be called in and heard, it was ordered accordingly; and they not being present, the House (according to Order) was adjourned during Pleasure, and put into a Committee to take into further Consideration the present State of the War in *Spain*.

After a long Time spent therein, the House was resumed, and the Earl of *Abington* reported, That the Committee had come to the following Resolution, viz.

(That the Earl of *Gallway*, Lord *Tyrawley*, and General *Stanhope*, insisting in a Conference held at *Valencia* some time in *January* 1706-7, in the Presence of the the King of *Spain*, and the Queen's Name being used in Maintenance of their Opinion, for an offensive War, contrary to the King of *Spain's* Opinion, and that of all the General Officers and Publick Ministers, except the Marquis *Das Minas*; and the Opinion of the Earl of *Gallway*, Lord *Tyrawley* and General *Stanhope* being pursued in the Operations of the following Campaign, was the unhappy Occasion of the Battle of *Almanza*, and one great Cause of our Misfortunes in *Spain*, and of the Disappointment of the Duke of *Savoy's* Expedition before *Toulon*, concerted with her Majesty.)

And the Question being put, whether to agree with the Committee in the said Resolution?

It was resolved in the Affirmative.

Dissentient'

1st, Because, we conceive, that the Proofs, which have been before the House, were not sufficient to warrant the Facts, as they are stated in the Question.

2^{dly}, Because, we conceive, that the said Proofs do not support the Consequences drawn from the Facts stated in the Question, especially the Disappointment of the Expedition against *Toulon*, which, as we apprehend, was clearly occasioned by other Causes, and not by the Cause assigned in the Question.

3^{dly},

3^{dly}, Because, we conceive, it may be of dangerous Consequence, if those, who may have the Honour to serve the Queen in *Spain*, should from henceforth have Reason to apprehend, that they may be censured for presuming to insist on such Opinions, as shall appear to them to be most for the Queen's Service and the common Cause, if contrary to the Opinion of the King of *Spain* and his Ministers.

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|-------------------------|------------------------------|---------------------|
| <i>Hallifax,</i> | <i>Devonshire,</i> | <i>Leicester,</i> |
| <i>Abburnham,</i> | <i>T. Wharton,</i> | <i>Stamford,</i> |
| <i>Mobun,</i> | <i>Orford,</i> | <i>Jon. Winton,</i> |
| <i>W. Lincoln,</i> | <i>J. Ely,</i> | <i>W. Carliol,</i> |
| <i>C. Norwich,</i> | <i>Jo. Landaff,</i> | <i>W. Asaph,</i> |
| <i>Godolphin,</i> | <i>Rockingham,</i> | <i>Marlborough,</i> |
| <i>Scarborough,</i> | <i>Harvey,</i> | <i>Haverham,</i> |
| <i>Kent,</i> | <i>Dorset,</i> | <i>Sunderland,</i> |
| <i>Gi. Sarum,</i> | <i>J. Litch' & Cov',</i> | <i>Jo. Bangor,</i> |
| <i>Ric. Petriburg',</i> | <i>J. Bridgewater,</i> | <i>Sommers,</i> |
| <i>Bedford,</i> | <i>Lincoln,</i> | <i>Dorchester,</i> |
| <i>Berkeley,</i> | <i>Herbert,</i> | <i>Couper.</i> |

Die Veneris 12^o Januarii 1710.

Upon Report from the Committee of the whole House appointed to take into further Consideration the present State of the War in *Spain*, That they had come to the following Resolution, *viz.*

(That it appears by the Earl of *Sunderland's* Letters, that the carrying on the War offensively in *Spain* was approved and directed by the Ministers, notwithstanding the Design of attempting *Thoulon*, which the Ministers at that Time knew was concerted with the Duke of *Savoy*; and therefore are justly to be blamed for contributing to all our Misfortunes in *Spain*, and to the Disappointment of the Expedition against *Thoulon*.)

Which being read by the Clerk,

The Question was put, whether to agree
 Contents 68 with the Committee in the said Reso-
 Not Cont. 48 lution?

It was resolved in the Affirmative.

Dissentient'

Because that considering the Army of the Allies in *Spain* was to receive so great an Addition of Troops by the

the Supply sent under the Earl *Rivers*, the general Desire and Expectation of the Kingdom to have the War brought to a speedy Conclusion, and all other Circumstances of the War, as it then stood; we are of Opinion, that an offensive War was then fittest for those in her Majesty's Service to advise; and we do not find Reason by any thing arising on the Examinations and Debates to be of another Opinion; the Occasion of fighting the Battle of *Almanza* depending, as we conceive, on Causes subsequent to that Advice; the ill Success of it, as we apprehend, being justly attributed to other manifest Reasons; and the real Design on *Thoulon*, as finally adjusted with the Duke of *Savoy*, and afterwards pursued, not requiring, as appears to us, the Assistance of any Force from *Spain*.

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|---------------------|-----------------------------|------------------------|
| <i>Devonshire,</i> | <i>Bolton,</i> | <i>Marlborough,</i> |
| <i>Kent,</i> | <i>Jon. Winton,</i> | <i>W. Carliol,</i> |
| <i>W. Lincoln,</i> | <i>Rich. Petriburg,</i> | <i>C. Norwich,</i> |
| <i>W. Asaph,</i> | <i>Jo. Landaff,</i> | <i>J. Bridgewater,</i> |
| <i>Sunderland,</i> | <i>Dorset,</i> | <i>Harvey,</i> |
| <i>Derby,</i> | <i>Lincoln,</i> | <i>Leicester,</i> |
| <i>Herbert,</i> | <i>Mobun,</i> | <i>Cowper,</i> |
| <i>Sommers,</i> | <i>Bedford,</i> | <i>Orford,</i> |
| <i>Godolphin,</i> | <i>G. Sarum,</i> | <i>J. Ely,</i> |
| <i>Ashburnham,</i> | <i>Berkeley,</i> | <i>Dorchester,</i> |
| <i>T. Wharton,</i> | <i>Stamford,</i> | <i>Rockingham,</i> |
| <i>Scarborough,</i> | <i>Jo. Eitch. and Cov',</i> | <i>Jo. Bangor.</i> |

Die Sabbati 3^o Februarii, 1710.

Upon Report from the Committee of the whole House appointed to take into further Consideration the present State of the War in *Spain*, That they had come to this Resolution, *viz.*

(That the two Regiments upon the *Spanish* Establishment, twice demanded, and provided for by Parliament, were not supplied as they ought to have been.)

And the same being read.

The Question was put, whether to agree with the Committee in this Resolution?

Contents 62
Not Cont. 46

It was resolved in the Affirmative.

Dissentient

Because

Because the Estimates in which the two Regiments of *Hill* and *Hotbam* were twice demanded, were agreed to by Parliament for the Service of *Portugal*, as well as of *Spain*; and that Mistake could not, in our Opinion, have been more effectually or sooner supplied than from *Ireland*, and in the Manner they were; for it appears to us, the said Estimates were not agreed to till the 11th of *January* 1706-7.

That the necessary Order for Transporting four other Regiments from *Ireland* to *Portugal* were issued on the 8th of *February* next following; and that the Money provided for the said two Regiments, twice reckoned, was applied to the Payment of the said four Regiments from the Time of their Embarkation.

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|-------------------------|----------------------------|---------------------|
| <i>Devonshire,</i> | <i>Kent,</i> | <i>Hallifax,</i> |
| <i>Ashburnham,</i> | <i>Jon. Winton',</i> | <i>Gi. Sarum,</i> |
| <i>Jo. Ely,</i> | <i>Jo. Bangor,</i> | <i>W. Carliol',</i> |
| <i>Jo. Landaff,</i> | <i>W. Lincoln,</i> | <i>Cholmondley,</i> |
| <i>Godolphin,</i> | <i>Rockingham,</i> | <i>Haversham,</i> |
| <i>T. Wharton,</i> | <i>Lincoln,</i> | <i>Harvey,</i> |
| <i>Sunderland,</i> | <i>J. Litch' and Cov',</i> | <i>C. Norwich,</i> |
| <i>Ric. Petriburg',</i> | <i>Stamford,</i> | <i>Orford,</i> |
| <i>Herbert,</i> | <i>Pelham,</i> | <i>Cornwallis,</i> |
| <i>Starbrough,</i> | <i>Bolton,</i> | <i>Bedford,</i> |
| <i>Rocheſter,</i> | <i>Westmoreland,</i> | <i>Carlisle,</i> |
| <i>J. Bridgewater,</i> | <i>Sommers,</i> | <i>Cowper,</i> |

Then another Resolution of the said Committee being read, viz.

(That not by supplying the Deficiencies of the Men given by Parliament for the War in *Spain*, the Ministers have greatly neglected that Service which was of the greatest Importance.)

The Question was put, whether to agree with the Committee in the said Resolution?

It was resolved in the Affirmative.

Dissentient'

Because the Resolution on the former Particular is not, as we conceive, a sufficient Ground for this general Vote; and the Committee of the whole House having declined to give any Opinion on the other Particulars, we think it unreasonable to proceed to a Censure on the Ministers for not supplying the Deficiency, without first resolving

resolving on the several Particulars, how far that Deficiency might be justly imputed to them.

And we are of Opinion, that all the Money given by Parliament, for the Service of *Spain* and *Portugal*, has been timely and punctually issued for that Service.

The rest of this Protestation was expunged by Order of the Ninth Instant, and is not legible.

| | | |
|------------------------|-----------------------------|---------------------|
| <i>Cornwallis,</i> | <i>Devonshire,</i> | <i>Kent,</i> |
| <i>Jonat. Winton,</i> | <i>Ric. Petriburg,</i> | <i>W. Lincoln,</i> |
| <i>W. Carliol,</i> | <i>W. Asaph,</i> | <i>Sommers,</i> |
| <i>Jo. Landaff,</i> | <i>Godolphin,</i> | <i>Chalmondley,</i> |
| <i>Ashburnham,</i> | <i>Stamford,</i> | <i>Oxford,</i> |
| <i>Herbert,</i> | <i>Haverſham,</i> | <i>Cowper,</i> |
| <i>Bolten,</i> | <i>Dorchester,</i> | <i>Curlife,</i> |
| <i>Lincoln,</i> | <i>Scarborough,</i> | <i>Hallifax,</i> |
| <i>Rockingham,</i> | <i>Jo. Litch' and Cov'.</i> | <i>Harvey,</i> |
| <i>T. Wharton,</i> | <i>Pelham,</i> | <i>C. Norwich,</i> |
| <i>Bedford,</i> | <i>Westmoreland,</i> | <i>Sunderland,</i> |
| <i>J. Bridgewater,</i> | <i>Gl. Sarum,</i> | <i>J. Ely.</i> |
| <i>Jo. Bangor.</i> | | |

Die Sabbati 8^o Decembris, 1711.

An Address on her Majesty's Speech, at opening the Session, was reported and agreed to, concluding, that it was the Opinion and Advice of the House, that no Peace could be safe or honourable, if *Spain* and the *West-Indies* were to be allotted to any Branch of the House of *Bourbon*.

And the Question being put, whether

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|-----------|----|--|
| Contents | 62 | this Address shall be presented to her |
| Not Cont. | 54 | Majesty? |

It was resolved in the Affirmative

Dissentient

We dissent to the Address, because the Nature of it is changed, by the Insertion of the last Clause, from that of an Address of Thanks; neither have we had any thing parliamentary from the Throne, or otherwise laid before us, whereon to ground such Advice as is therein contained.

And we look upon it as an Encroachment on the Royal Prerogative, in so hasty a Manner to declare our Opinions, and on no better Grounds, in a Thing so essentially belonging to the Crown as making of Peace and War.

Beaufort

| | | |
|---------------------------------------|------------------------|------------------------|
| <i>Beaufort,</i> | <i>Clarendon,</i> | <i>Suffex,</i> |
| <i>Osborne,</i> | <i>Denbigh,</i> | <i>Tbanet,</i> |
| <i>P. St. Davids,</i> | <i>T. Chichester,</i> | <i>Berkshire,</i> |
| <i>Stawell,</i> | <i>Northumberland,</i> | <i>North and Grey,</i> |
| <i>Hatton,</i> | <i>Yarmouth,</i> | <i>Scarsdale,</i> |
| <i>Job. Bristol, C. P. S.</i> | <i>Plimouth,</i> | <i>Cardigan.</i> |
| <i>Willoughby de Broke, Delawarr,</i> | | |

Die Jovis 20^o Decembris, 1711.

After considering the Patent for creating the Duke of *Hamilton* Duke of *Brandon*.

And Debate concerning the Matter,

The Question was put, that no Patent
 Contents 57 of Honour granted to any Peer of
 Not Cont. 52 *Great-Britain*, who was a Peer of
Scotland at the Time of the Union,
 can intitule such Peer to sit and vote in Parliament, or to
 sit upon the Trials of Peers?

It was resolved in the Affirmative.

Dissentient'

1st, Because, as we apprehend, by this Resolution, the Prerogative of the Crown in granting Patents of Honour, with all Privileges depending thereon, to the Peers of *Great-Britain*, who were Peers of *Scotland* at the Time of the Union, as well as the Right of the Duke of *Brandon* to sit and vote in Parliament, are taken away; and this Prerogative of the Crown, and Right of the Duke, depending upon the Construction of an Act of Parliament, though Council, by Order of the House, were heard at the Bar, and all the Judges were ordered to attend at the same Time, yet the Opinion of the Judges were not permitted to be asked touching the Construction of the said Act of Parliament.

2^{dly}, Because the Prerogative of the Crown, as we conceive, in granting Patents of Honour, with the Privileges depending thereon, ought not, on the Construction of any Act of Parliament, to be taken away, unless there be plain and express Words to that Purpose in the said Act; and, we conceive, there are no such plain and express Words for that Purpose in *the Act of Union*.

3^{dly}, Because, by this Resolution, all the Peers of *Great-Britain*, who were Peers of *Scotland* at the Time of

of the Union, are supposed to be incapable of receiving any Patent of Honour from the Crown, by virtue whereof they may be entitled to the Privileges of sitting and voting in Parliament, and sitting on the Trial of Peers; which, we conceive, is repugnant to the 4th Article of *the Act of Union*, which declares the Privileges and Advantages which do or may belong to the Subjects of either Kingdom, except where it is otherwise expressly agreed in those Articles, in which, we apprehend, there is no such Provision.

4thly, Because the Duke of *Queensbury*, in all respects, in the same Case as the Duke of *Hamilton*, was introduced, sat and voted in this House in Matters of the highest Importance, in two several Parliaments, as Duke of *Dover*, by virtue of a Patent passed since the Union; and in Consequence of such sitting and voting, his Vote in the Election of Peers of *Scotland* was rejected; and as a further Consequence thereof the Marquis of *Lothian* was removed from his Seat in this House, which he had an undeniable Title to, if the Duke of *Queensbury's* Patent, as Duke of *Dover*, had not given him a Title to sit and vote in this House.

5thly, Because, by this Resolution, the Peers of *Scotland* are reduced to a worse Condition, in some respects, than the meanest or most criminal of Subjects.

6thly, Because we conceive, this Resolution may be construed to be a Violation of the Treaty between the two Nations.

Winchilsea,

Ormonde,

Balmerino,

Clarendon,

Oxford and Mortimer,

Boyle,

Kylsyth,

Rivers,

Blantyre,

Hunsdon,

Poulett,

Harcourt, C. S.

Home,

Mar,

Loudoun,

Osborne,

Roseberrie,

Ilay,

Orkney.

Die Lunæ 8^o Junii, 1713.

Hodie 3a vice lecta est Billa, entitled, An Act for granting to her Majesty Duties upon Malt, Mum, Cyder and Perry for the Service of the Year One thousand seven hundred and thirteen, and for making forth Duplicates of Lottery Tickets lost, burnt or destroyed; and for

for enlarging the Time for adjusting Claims in several Lottery Acts; and to punish the counterfeiting or forging of Lottery Orders; and for explaining a late Act in relation to Stamp Duties on Customary Estates which pass by Deed and Copy.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because, we apprehend, that the charging *Scotland* with this Malt Tax will be a Violation of the Fourteenth Article of the Union, by which it is expressly provided, that *Scotland* shall not be charged with any Malt Tax during this War: And it was not denied; for indeed it is undeniable, that Peace with *Spain* is not yet concluded, and by Construction of Law and Usage of Parliament this Bill is to be reckoned as a Grant to the Crown, and a Charge upon the People from the first Day of this Session, at which Time even the Peace with *France* was not made.

2^{dly}, Because a great Part of this Malt Tax is for the satisfying and making up the Deficiency of the Malt Tax in the Year One thousand seven hundred and eleven, from which *Scotland* being entirely free, we conceive it unjust, even though the Peace were concluded, to make that Part of the United Kingdom pay any Part of that Tax, which was expressly given (as appears by the Preamble) for this present War.

3^{dly}, Because it is by the aforesaid Fourteenth Article expressly provided, that due Consideration shall be had of the Circumstances of *Scotland*, when any Imposition or Tax is laid on it; and we are fully perswaded that it is impossible for *Scotland* to bear so heavy a Tax, by which it will be liable to pay vastly more when the Peace shall be concluded than it did during the War; whereas *England* has its Burthens greatly diminished.

Somerset,

Sunderland,

Lonsdale,

Mar,

Findlater,

Eglintoun,

Northesk,

Ilay,

Rosberrie,

Balmerino,

Blantyre,

Loudoun,

Scarborough,

Greenwich,

Kylsyth,

Linlithgow,

Kinnoul,

Home.

Orkney;

I

Die

Die Martis 15^o Junii, 1714.

Hodie 3^a vice lecta est Billa, entitled, An Act to prevent the Growth of Schism, and for the further Security of the Church of *England* as by Law established.

Contents 56 }
Proxies 21 } 77
Not Cont. 49 }
Proxies 23 } 72

The Question was put, whether this Bill, with the Amendments, shall pass?

It was resolved in the Affirmative.

Dissentient'

1st, We cannot apprehend (as the Bill recites) that great Danger may ensue from the Dissenters to the Church and State, because,

1. By Law, no Dissenter is capable of any Station, which can be supposed to render him dangerous.

2. And since the several Sects of Dissenters differ from each other as much as they do from the Established Church, they can never form of themselves a National Church, nor have they any Temptation to set up any one Sect among them: For in that Case, all that the other Sects can expect is only a Toleration, which they already enjoy by the Indulgence of the State; and therefore 'tis their Interest to support the Established Church against any other Sect that would attempt to destroy it.

2^{dly}, If nevertheless the Dissenters were dangerous, Severity is not so proper and effectual a Method to reduce them to the Church as a charitable Indulgence; as is manifest by Experience, there having been more Dissenters reconciled to the Church since the Act of Toleration, than in all the Time from the Act of Uniformity to the Time of the said Act of Toleration, and there is scarce one considerable Family in *England* in Communion with the Dissenters: Severity may make Men Hypocrites, but not Converts.

3^{dly}, If Severity could be supposed ever to be of Use, yet this is not a proper Time for it, while we are threatned with much greater Dangers to our Church and Nation, against which the Protestant Dissenters have joined, and are still willing to join with us in our Defence; and therefore we should not drive them from us by enforcing the Laws against them, in a Matter which, of all others, must most sensibly grieve them, *viz.* the

Education

Education of their Children, which reduces them to the Necessity either of breeding them in a Way which they do not approve, or leaving them without Instruction.

4^{thly}, This must be the more grievous to the Dissenters, because it was little expected from the Members of the Established Church, after so favourable an Indulgence to them, as the Act of Toleration, and the repeated Declarations and Professions from the Throne, and former Parliaments, against all Persecution, which is the peculiar Badge of the *Roman Church*, which avows and practises this Doctrine; and yet this has not been retaliated even upon Papists, for all the Laws made against them have been the Effect and just Punishment of the Treasons from time to time committed against the State: But it is not pretended that this Bill is designed as a Punishment of any Crime which the Protestant Dissenters have been guilty of against the Civil Government, or that they are disaffected to the Protestant Succession, as by Law established: for in this their Zeal is very conspicuous.

5^{thly}, In all the Instances of making Laws, or of a rigid Execution of the Laws against Dissenters, it is very remarkable that the Design was to weaken the Church, and to drive them into one common Interest with the Papists, and to join them in Measures tending to the Destruction of it: These were the Measures suggested by *Papish* Counsels, to prepare them for the two successive Declarations in the Time of King *Charles II.* and the following, issued by King *James II.* to ruin all our Civil and Religious Rights; and we cannot think that the Arts and Contrivances of the Papists to subvert our Church are proper Means to preserve it, especially at a Time when we are in more danger of Popery than ever by the Designs of the Pretender, supported by the mighty Power of the *French King*, who is engaged to extirpate our Religion, and by great Numbers in this Kingdom, who are professedly in his Interests.

6^{thly}, But if the Dissenters should not be provoked by this Severity to concur in the Destruction of their Country and the Protestant Religion, yet we may justly fear they may be driven, by this Bill, from England, to the great Prejudice of our Manufactures; for as we

gained them by the Persecutions abroad, so we may lose them by the like Proceedings at home.

Lastly, The Miseries we apprehend here are greatly enhanced by extending this Bill to *Ireland*, where the Consequences of it may be fatal; for since the Number of Papists in that Kingdom far exceeds all the Protestants of all Denominations together, and that the Dissenters are to be treated as Enemies, or at least, as Persons dangerous to that Church and State, who have always in all times joined, and would still join with the Members of that Church in their common Defence against the common Enemy of their Religion; and since the Army there is much reduced, the Protestants, thus unnecessarily divided, seem to us to be exposed to the Danger of another Massacre, and the Protestant Religion in danger of being extirpated.

And we may further fear that the *Scotch* in *Britain*, whose national Church is Presbyterian, will not so heartily and so zealously join with us in our Defence, when they see those of the same Nation, the same Blood, and the same Religion, so hardly treated by us.

And this will still be more grievous to the Protestant Dissenters in *Ireland*, because whilst the Popish Priests are register'd, and so indulged by Law as that they exercise their Religion without Molestation, the Dissenters are so far from enjoying the like Toleration, that the Laws are, by this Bill, enforced against them.

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|--------------------------------|------------------------|--------------------|
| <i>Somerset,</i> | <i>Bolton,</i> | <i>Torrington,</i> |
| <i>Dorchester,</i> | <i>Grafton,</i> | <i>Devonshire,</i> |
| <i>Scarborough,</i> | <i>Derby,</i> | <i>Lincoln,</i> |
| <i>Nottingham,</i> | <i>Carlisle,</i> | <i>Sammers,</i> |
| <i>Haverham,</i> | <i>Foley,</i> | <i>Montagu,</i> |
| <i>Hallifax,</i> | <i>Greenwich,</i> | <i>Radnor,</i> |
| <i>W. Lincoln,</i> | <i>J. Ely,</i> | <i>W. Asaph,</i> |
| <i>Dorset and Middlesex,</i> | <i>T. Wharton,</i> | <i>Townshend,</i> |
| <i>Sunderland,</i> | <i>Cornwallis,</i> | <i>Orford,</i> |
| <i>Rockingham,</i> | <i>Jo. Bangor,</i> | <i>J. Landaff,</i> |
| <i>Schonburg and Leinster,</i> | <i>De Longueville,</i> | <i>Cowper.</i> |

Die Jovis 8^o Julii, 1714.

The House taking into Consideration the State of the Trade of this Kingdom, with *Spain* and the *West-Indies*.

It was proposed, that an humble Representation be made to her Majesty, that the Benefit of the *Affiento* Contract, and of the Licences, have been greatly obstructed by unwarrantable Endeavours to gain private Advantages to particular Persons.

After Debate, the Question was put,
 Contents 40 that such a Representation be made
 Not Cont. 58 to her Majesty ?

It was resolved in the Negative.

Dissentient

1st, Because, as we humbly conceive, the great Delays in this Negotiation, which lasted about twelve Months, could not proceed from any other Motive, since it would have been infinitely more advantageous to the Publick to have had all Matters settled immediately.

2^{dly}, The several Turns this Affair took, the several Methods used to obtain greater Advantages to the Assignees, seemed to us plainly to shew, that the Interest of particular Persons was the chief Aim in this Transaction.

In the first Draught of this Assignment from the Queen of the *Affiento* Contract, the Queen was made Co-partner with the Company ; but when there was found insuperable Difficulty in this, it was offered that the Queen should assign to particular Persons, who should become Members with the Company, paying their Proportion of the Joint-Stock, and be subject to all other Rules of the Contract.

After this had been long transacting, the Scene changed, and the Company were now told, that the Queen expected her Assignees should be in all respects on the same foot as she herself would have been, and did not think it hard for the Company to make all the Advances : These new Hardships gave a great Alarm to the Company ; and in a general Court there was great Contention, whether the *Affiento* should be accepted or not, and with Difficulty it was determined to receive it, even with Conditions that did, in some measure, alleviate these new Impositions.

Things being come to this Pass, a noble Lord condescended to treat with some of the Directors about the Proportion of Money that the Assignees should advance, and to promise them great Benefits, if they would be easy to the Assignees in those Conditions: On the Company's Compliance with this Proposal, a new Method was found of settling this in *Chancery*; but the Council for the Company having, in the Answer of the Assignees, inserted Words that were thought too restrictive, and too binding on the Assignees to secure their Payments to the Company, great Disputes and Warmth arose on that Occasion, and the Writings were stopped several Weeks before this could be adjusted; afterwards the Assignees named in the Schedules appearing to be only Trustees of the Crown, who are afterwards to make a Declaration of Trust, and to assign over to other Persons, the Council for the Company gave their Opinion, that it was not safe for the Company to accept the *Assiento* upon those Terms, it being liable to all the Objections that were made to the Proposition a Year before.

3dly, It having been proposed by the Company, when they foresaw great Delays in settling the Assignment of the *Assiento*, that the Licences for the two Ships should be dispatched, which were to take Place even before the Peace, that the Cargo they had provided might have been sent away to be there at the Fair, when the Gallies, which were then sailing, should arrive: This great Advantage to the Publick was refused them, for no better Reason, as we conceive, than that the Assignees of the Crown might not have had their Share in the Advantage; by this means the Company's Ships have lain long at Demurrage, and they have paid Interest for the Money advanced, while the Cargo continues useless and in a perishing Condition.

Two Seasons of sailing are past, and the great Advantage of coming early to a Market, after a long War, is entirely lost to the Publick.

Lastly, Several of the Court of Directors declared, upon Oath, at our Bar, that Mr. Moore, who is known to have been in the Secret, and to be in the utmost Confidence with those who have transacted, this whole Matter, advised them to give a Sum of Money to the Assignees to remove the Obstruction.

Green.

| | | |
|-------------------|--------------------|---------------------|
| <i>Greenwich,</i> | <i>Devonshire,</i> | <i>Nottingham,</i> |
| <i>Somerset,</i> | <i>Bolton,</i> | <i>Lincoln,</i> |
| <i>Grafton,</i> | <i>Townshend,</i> | <i>Scarborough,</i> |
| <i>Berkeley,</i> | <i>Haltifax,</i> | <i>Rockingham,</i> |
| <i>Orford,</i> | <i>Cowper,</i> | <i>Guernsey,</i> |
| <i>Bradford,</i> | <i>Foley,</i> | <i>Gl. Sarum,</i> |
| <i>Rockford,</i> | <i>Haverham,</i> | <i>T. Wharton.</i> |

Die Jovis 18^o Augusti, 1715.

Hodie 3^a vice lecta est Billa, entitled, An Act for the Attainder of Henry Viscount Bolingbroke of High Treason, unless he shall render himself to Justice by a Day certain therein mentioned.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient'

1st, Because we cannot give our Consent to the affirming, that the Lord to be attainted by this Bill is fled from Justice, being known to have left England before he was impeached in Parliament; nor does it appear to us, that the Lord so impeached has had any Summons to return, or legal Notice, by Proclamation or otherwise, of the Charge brought up against him.

2^{dly}, Because no particular Proofs have been laid before the House of any High-Treason, or other High-Crimes and Misdemeanors, with which he stands charged; nor has any Evidence been given to this House of his adhering to the King's Enemies, or being concerned in any traiterous Design since he left England.

3^{dly}, Because the Time prescribed for his Return is much shorter than what has been allowed to Persons in like Circumstances of supposed Guilt, though of far meaner Condition and Character; nor do we know or believe, that there is any Instance of any Person whatsoever, who was out of the Kingdom at the Time of his being impeached in Parliament, who has not had a longer Day assigned for his Return, before he was to stand and be adjudged attainted, or actually incur any other high Pains and Penalties inflicted by Act of Parliament.

And we think such Allowance of a longer Day, in the Case of Attainders by Parliament, to be much more reasonable

reasonable, as it is agreeable; not only to parliamentary Usage, but to the Methods of Common Law, in all Cases of Outlawry, whereby more Months are allowed to the most notorious Traitor (known to be fled from Justice) for his coming in, before his Outlawry can be recorded, than this Act allows Weeks, to the Lord impeached, for his returning before his Attainder takes Place.

| | | |
|--------------------------|-------------------|-----------------------------|
| <i>Fran. Cestriens',</i> | <i>Scarsdale,</i> | <i>Willoughby de Broke,</i> |
| <i>Compton;</i> | <i>Foley,</i> | <i>Jersey,</i> |
| <i>Stafford,</i> | <i>Abingdon,</i> | <i>Bathurst,</i> |
| <i>Ashburnham,</i> | <i>Weston,</i> | <i>Masham,</i> |
| <i>Lansdowne,</i> | <i>Clarendon,</i> | <i>Fr. Roffen'.</i> |

Eodem Die.

Hodie 3^a vice lecta est Billa, entitled, An Act for the Attainder of *James Duke of Ormonde,* of High-Treason, unless he shall render himself to Justice, by a Day certain therein mentioned.

Contents 59 The Question was put, whether this Bill shall pass?
Not Cont. 23.

It was resolved in the Affirmative.

Dissentient',

For the Reasons given against the Bill, entitled, *An Act for the Attainder of Henry Viscount Bolingbroke,* of High Treason, unless he shall render himself to Justice, by a Day certain therein mentioned.

| | | |
|-----------------------------|--------------------|-----------------------------|
| <i>Scarsdale,</i> | <i>Compton,</i> | <i>Willoughby de Broke,</i> |
| <i>Geo. Bath and Wells,</i> | <i>Foley,</i> | <i>Fr. Roffen',</i> |
| <i>Fran. Cestriens',</i> | <i>Stafford,</i> | <i>Abingdon,</i> |
| <i>Bathurst,</i> | <i>Lansdowne,</i> | <i>Weston,</i> |
| <i>Masham,</i> | <i>Ashburnham,</i> | <i>Clarendon.</i> |

Die Sabbati 21^o Januarii, 1715.

Hodie 3^a vice lecta est Billa, entitled, An Act for continuing an Act of this present Session of Parliament, entitled, *An Act to empower his Majesty to secure and detain such Persons as his Majesty shall suspect are conspiring against his Person and Government.*

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient',

1st, Because some Provisions, which, in former Bills of this Nature, were thought necessary to prevent unjust Imprisonment, are omitted in this.

2^{dly},

2dly, Because the Manner of continuing the Suspension, by Reference only, deprived this House of the Opportunity freely to debate the several Parts of the Act: so continued.

3dly, Because by this Bill the Liberty of the Subject is in greater Danger, than if the Act suspended were totally repealed.

4thly, Because no Provision is made in this Act for restraining the extravagant Executions of the Power given to Ministers, who are, like other Men, subject to Passion and Revenge, at whose Will and Pleasure the most dutiful and loyal Subjects may be deprived of their Liberty, and all Conversation with their best Friends and dearest Relations; which may tend to alien from his Majesty their Affections, the best Security against Invasions from abroad or Rebellion at home.

5thly, Because, though it may be necessary, in this Time of Danger, to continue the Suspension of the said Act, with proper Provisions, yet not for so long a Time as is proposed by this Bill, while the Parliament is like to continue sitting.

6thly, Because the ancient Rights and Privileges of Parliament, particularly for preventing the Imprisonment of Members of both Houses, are not by this Act sufficiently provided for, which may intimidate the Members from using Freedom of Speech in Parliament, so necessary for advising his Majesty, and for restraining the exorbitant Power of evil Ministers.

Abington.

Die Sabbati 14^o Aprilis, 1716.

Hodie 2^a vice lecta est Billa, entitled, An Act for enlarging the Time of Continuance of Parliaments, appointed by an Act made in the sixth Year of the Reign of King William and Queen Mary, entitled, *An Act for the frequent Meeting and Calling of Parliaments.*

| | | | |
|-----------|----|------|---|
| Contents | 77 | } 96 | The Question was put, whether this Bill shall be committed? |
| Proxies | 19 | | |
| Not Cont. | 43 | } 61 | It was resolved in the Affirmative. |
| Proxies | 18 | | |

Dissentient

1st, Because, we conceive, that frequent and new Parliaments

Parliaments are required by the fundamental Constitution of the Kingdom; and the Practice thereof for many Ages (which manifestly appears by our Records) is a sufficient Evidence and Proof of this Constitution.

2dly, Because it is agreed, that *the House of Commons* must be chosen by the People, and when so chosen, they are truly the Representatives of the People, which they cannot be so properly said to be, when continued for a longer Time than that for which they were chosen; for after that time they are chosen by the Parliament, and not the People, who are thereby deprived of the only Remedy which they have against those, who either do not understand, or through Corruption, do wilfully betray the Trust reposed in them; which Remedy is, to choose better Men in their Places.

3dly, Because the Reasons given for this Bill, we conceive, were not sufficient to induce us to pass it, in Subversion of so essential a Part of our Constitution.

1. For as to the Argument, that this will encourage the Princes and States of *Europe* to enter into Alliances with us, we have not heard any one Minister assert, that any one Prince or State has asked, or so much as insinuated that they wished such an Alteration.

Nor is it reasonable to imagine it, for it cannot be expected that any Prince or State can rely upon a People to defend their Liberties and Interests, who shall be thought to have given up so great a Part of their own; nor can it be prudent for them to wish such an Experiment to be made, after the Experience that *Europe* has had of the great Things this Nation has done for them, under the Constitution which is now to be altered by this Bill.

But on the other hand, they may be deterr'd from entering into Measures with us, when they shall be informed, by the Preamble of this Bill, that the Popish Faction is so dangerous, as that it may be destructive to the Peace and Security of the Government, and may apprehend from this Bill, that the Government is so weak, as to want so extraordinary Provision for its Safety; which seems to imply, that the Gentlemen of *Britain* are not to be trusted or relied upon, and that the good Affections
of

of the People are restrained to so small a Number, as that of which *the present House of Commons* consists.

2. We conceive this Bill is so far from preventing Expences and Corruptions, that it will rather increase them; for the longer a Parliament is to last, the more valuable to be purchased is a Station in it, and the greater also is the Danger of corrupting the Members of it? for if ever there should be a Ministry who shall want a Parliament to screen them from the just Resentment of the People, or from a Discovery of their ill Practices to the King, who cannot otherwise, or so truly, be informed of them, as by a free Parliament, it is so much the Interest of such a Ministry to influence the Elections (which by their Authority and the Disposal of the publick Money, they, of all others, have the best Means of doing) that 'tis to be fear'd they will be tempted, and not fail to make use of them; and even when the Members are chosen, they have greater Opportunity of inducing very many to comply with them, than they could have, if not only the Sessions of Parliament, but the Parliament itself, were reduced to the Ancient and primitive Constitution and Practice of frequent and new Parliaments; for as a good Ministry will neither practise nor need Corruption, so it cannot be any Lord's Intention to provide for the Security of a bad one.

athly, We conceive that whatever Reasons may induce the Lords to pass this Bill to continue this Parliament for seven Years, will be at least as strong, and may, by the Conduct of the Ministry, be made much stronger, before the End of seven Years, for continuing it still longer; and even to perpetuate it; which would be an express and absolute Subversion of the third Estate of the Realm.

Poulett,
Stratford,
Northampton,
Fr. Roffen',
Willoughby de Broke,
Foley,
Anglesey,
Nottingham,
Abingdon,

Dartmouth,
Montjay,
Fran. Cestriens',
Bathurst,
Compton,
Somerset,
Salisbury,
Bristol,
Mansell,

Bingley,
Trevor,
P. Hereford,
Bruce,
Ashburnham,
Shrewsbury,
Berkshire,
Tadcaster,
Guilford,
Aylesford,

Aylesford,
Osborne,

Gower,

Wesson.

Die Veneris 22^o Junii, 1716.

Hodie 3^a vice lecta est Billa, entitled, An Act for appointing Commissioners to enquire of the Estates of certain Traitors and of Popish Recusants, and of Estates given to superstitious Uses, in order to raise Money out of them severally for the Use of the Publick.

Contents 44

Not Cont. 19

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, We conceive there is no Necessity of this Bill, because the ordinary Forms of Law will bring all the Forfeitures of Persons attainted into the *Exchequer* much sooner, and with less Expence to the Publick, than will be by this Bill.

2^{dly}, This Bill takes away the Estates of Persons tho' innocent, and subjects them to severe Penalties not to be avoided by any Method agreeable to Reason or Justice.

3^{dly}, It vests all Leases for Years, of Persons attainted, in the Crown, from the four and twentieth of *June*, One thousand seven hundred and fifteen; whereas by Law such Leases are not forfeited but from the Time of Conviction; and this may overthrow the Estates of innocent Purchasers or Mortgagees of such Chattle Leases, who may have bought and lent their Money under the safe Protection of the Law.

4^{thly}, Because, by this Bill, all Debtors are obliged to discover the Debts they owe to any Person to the Commissioners by the 24th of *November*, 1716, under the Penalty of forfeiting double the Debt, in case the Creditor happen to be attainted at any Time before the 24th of *June*, 1718, altho' before the 24th of *November*, 1716, he be neither accused, nor so much as suspected; and, we conceive, no Construction can be made of that Clause, from any seeming Inconsistency in it, to exempt it from the Absurdity and Injustice enacted by it.

5^{thly}, Because any Arguments drawn from any Part of that Clause to make the rest of it good Sense, were they just, yet we cannot agree to enact such a Clause, which must either be not good Sense or unjust. 6^{thly},

6thly, Because every Person, who has any Claim to, or Interest in any other Man's Estate, must make his Claim before the Commissioners by *June*, 1717, or else, if the Person whose Estate is subject to such Claim happens to be attainted by *June*, 1718, though till then he be never accused nor suspected, they are for ever barred; and no Construction was endeavoured to be made of this Clause to excuse it from the Absurdity and Injustice apparent in it.

7thly, The Act for the *Irish* Forfeitures, being urged as a Precedent for this Bill, we conceive, if that Act were liable to the Objections which this Bill is, by having in it the like Clauses, yet that is no good Reason for the passing this; for if that Parliament did a Wrong and Injustice, it is no Argument for this Parliament to do the same, lest, in Process of Time, repeated Precedents of this Kind may become too hard for Reason and Justice.

8thly, Because the general Words in this Bill may give Occasion to the Commissioners to think, and the Judges to construe, that they have Power to summon Peers, examine them upon Oath, and commit them to the common Goal, which, we conceive, was contrary to the Sense of the House, and far from their Intention to agree to.

9thly, Because this Bill takes away the Power from his Majesty of doing the least Act of Charity to a starving Wife and Children out of the forfeited Estates, except a Provision for the Wives and Daughters of the late Duke of *Ormonde*, the late Lord *Mar*, and the late Lord *Bolingbroke*.

| | | |
|------------------|------------------------------|-------------------|
| <i>Abingdon,</i> | <i>Gower,</i> | <i>Aylesford,</i> |
| <i>Montjoy,</i> | <i>Strafford,</i> | <i>Foley,</i> |
| <i>Hay,</i> | <i>Mansell,</i> | <i>Bathurst,</i> |
| <i>Trevor,</i> | <i>Berkeley of Stratton,</i> | <i>Bruce.</i> |
| <i>Compton,</i> | | |

Die Lunæ 25^o Martii, 1717.

Hodie 3^a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

Contents. 32

Not Cont. 9

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient?

Dissentient

1st, Because no particular Reason or Occasion is so much as suggested in this Bill, for keeping on foot a Standing Army consisting of Thirty two thousand Men in this Kingdom, in Time of Peace; and therefore this Act will be a Precedent for keeping the same Army at all Times, though this Kingdom be in Peace; which, we think, must inevitably subvert the ancient Constitution of this Realm, and subject the Subjects to arbitrary Power.

2^{dly}, Because, by this Bill, the Soldiers are exempted from being arrested by Process of Law, at the Suit of any Person for recovering a just Debt, or upon any Action whatsoever; which is a great Injustice to the Subjects, taking from them the Benefit of the Law for recovering their just Demands, and for obtaining Satisfaction for any Injury done them by a Soldier, either by wounding or maiming, or wrongfully taking away his Goods: And, we conceive, this will be so far from preserving good Order and Discipline in the Army, that, on the contrary, it will be a great Encouragement to the Soldiers to live in their Quarters in all Manner of Licentiousness, and to insult their Fellow-Subjects both in their Persons and Estates, when they know, that by this Law they are disabled from obtaining any effectual Satisfaction from them, by the Course of Justice, for any such Violence or Injury; and the only Reason offered to justify this Exemption from Arrests being to prevent the taking Soldiers out of his Majesty's Service by collusive Arrests, we think, the preventing such an imaginary Mischief can be no Reason to discharge the Persons of Soldiers from being taken upon any Civil Process, where the Cause of Action is real, which is a Privilege only belonging to a Peer of the Realm.

3^{dly}, Because this Bill doth establish Martial Law extending to the Life of the Offenders, in Time of Peace, which, we conceive, is contrary to the ancient Laws of this Kingdom; and the Soldiers are obliged to obey the Military Orders of their superior Officers, under the Penalty of being sentenced by a Court-Martial to suffer Death for their Disobedience; and that without any Limitation or Restriction, whether such Orders are agreeable

greeable to the Laws of the Realm, or not; when by the fundamental Laws thereof, the Commands and Orders of the Crown (the supreme Authority) are bound and restrained within the Compass of the Law, and no Person is obliged to obey any such Order or Command, if it be illegal, and is punishable by Law, if he does, notwithstanding any such Order or Command, though from the King.

Treuer, Abingdon, Northampton,
Berkeley of Stratton, Bathurst, Dartmouth.

Die Mercurii 30^o Aprilis, 1717.

Upon Report from the Committee of the whole House, appointed to consider of the Papers relating to the Riots at *Oxford*, that they had come to the following Resolution, *viz.*

(That it is the Opinion of this Committee, that the Lords of the Committee of Council, to whom the Papers relating to the Riots at *Oxford* were referred, had sufficient Grounds to come to the Resolution reported to his Royal Highness the Prince, *viz.* That the Heads of the University and Mayor of the City neglected to make any publick Rejoicings on the Prince's Birth-Day; but some of the Collegiates, with the Officers, being met to celebrate the said Day, the House where they were was assaulted, and the Windows were broken by the Rabble, which was the Beginning and Occasion of the Riots that ensued, as well from the Soldiers, as the Scholars and Townsmen; and that the Conduct of the Major seems well justified by the Affidavits produced on his Part.)

After Debate, the Question was put,

Contents 58. whether to agree with the Committee.
 Not Cont. 32. in the said Resolution?

It was resolved in the Affirmative.

Dissentient

1st, Because, by this Resolution, the Heads of all the Colleges and Halls within the University of *Oxford* stand censured, as we apprehend, for Disrespect and Want of Duty to his Royal Highness the Prince, in neglecting to make publick Rejoicings on his Birth-Day; whereas it sufficiently appeared to us, that no Rejoicings had ever been made before that Time, within the said University.

on the Birth-Day of any Heir apparent to the Crown, or even on the Sovereign, except only on the Twentyninth of *May*, set apart by Act of Parliament, perpetually to be observed as a Day of Publick Thanksgiving.

And there seems the less Reason, in our Opinion, for laying so heavy a Charge on the Heads of those learned Societies, inasmuch as they have not been allowed any Opportunity of being heard thereto, nor even knew themselves to be any ways accused in that Particular.

2dly, Because the Proceedings of the Major, as we conceive, are not to be justified by Law, if the Affidavits which were sent to make good the Complaints against the Major and Soldiers be considered, as well as those Affidavits which were produced on the Major's Part, there being several Enormities charged, as well on the Major, as on the Soldiers under his Command, by the former Affidavits, no way answered by the latter, or so much as denied by the Major himself in any of his own Affidavits or Letters.

3dly, Because, we conceive, the Matter of Fact relating to the breaking the Windows of the Room wherein the Major and others were, with some Stones from *Hurt's* the Ironmonger's House, has not been sufficiently examined into, for want of giving an Opportunity to the Complainants of replying to the Affidavits relating to that Matter; and suppose the Truth of that Fact had actually appeared upon a full Examination, yet it cannot be pretended to be a legal Justification of the Major for inciting or suffering the Soldiers under his Command to go through the City insulting the Magistrates, and breaking the Windows of many Citizens, who are not pretended to have given the least Offence to 'em.

4thly, Because the Officers and Soldiers of the Army may take Occasion, from this Resolution, to think themselves exempt from the Civil Power in Criminal Cases, and be induced thereby to contemn and resist the Authority of the Civil Magistrates, to which they are, in such Cases, as liable as any other of his Majesty's Subjects.

5thly, Because the Civil Officers and Magistrates may probably be discouraged, by this Resolution, from doing

ing their Duty on such Occasions, and his Majesty's Subjects be deterred from making their just Complaints, in an humble and dutiful Manner, of any Oppressions which they have suffered, or may suffer, from any Officers or Soldiers in the Army.

W. Ebor', North and Grey,

Willoughbyde Broke,

Fr. Roffen', Northampton,

Fran. Cestriens',

Geo. Bristol, Litchfield,

Compton,

Bruce, Guilford,

Aylburnham,

P. Hereford, Harcourt,

Foley,

Buckingham, Bristol,

Dartmouth,

Say and Sele, Berkeley of Stratton,

Montjoy,

Boyle, Weston,

Abingdon,

Joh. London, Trevor,

Mansell.



Die Sabbati 25^o Maii, 1717.

A long Report was made from a Committee, appointed to search and report such Precedents as may the better enable the House to judge what may be proper to be done on Occasion of the Petition of the Earl of *Oxford*, and the Case of the said Earl, as it now stands before the House.

And after Debate thereupon, the
 Contents 45 Question was put, that it is the Op-
 Not Cont. 87 nion of this House, that the Im-
 peachment exhibited by the Com-
 mons of *Great-Britain*, against the Earl of *Oxford* and
 Earl *Mortimer*, for High Crimes and Misdemeanors, is
 determined by the intervening Prorogation.

It was resolved in the Negative.

Dissentient'

1st, Because there seems to be no Difference in Law between a Prorogation and a Dissolution of a Parliament, which, in constant Practice, have had the same Effect as to Determination, both of judicial and legislative Proceedings; and consequently this Vote may tend to weaken the Resolution of this House, *May 22, 1685*, which was founded upon the Law and Practice of Parliament in all Ages, without one Precedent to the contrary, except in the Cases which happened after the Order made the 19th of *March, 1678*, which was reversed and annulled in 1685; and in Pursuance hereof the Earl of *Salisbury* was discharged in 1690. 2^{dly}.

2dly, Because this can never be extended to any but Peers, for by the Statute 4 Ed. III. no Commoner can be impeached for any capital Crime; and it is hard to conceive, why the Peers should be distinguished and deprived of the Benefit of all the Laws of Liberty, to which the meanest Commoner in *Britain* is intitled; and this seems the more extraordinary, because it is done unasked of the Commons, who, as is conceived, never can ask it with any Colour of Law, Precedent, Reason or Justice.

| | | |
|------------------------|------------------|-------------------|
| <i>Nottingham,</i> | <i>Abingdon,</i> | <i>Dartmouth,</i> |
| <i>Fra. Roffen,</i> | <i>Manfell,</i> | <i>Foley,</i> |
| <i>North and Grey,</i> | <i>Hay,</i> | <i>Bruce.</i> |
| <i>Bathurst,</i> | <i>Guilford,</i> | |

Die Jovis 20^o Februarii, 1717.

The Order of the Day being read, for the House to be put into a Committee of the whole House, upon the Bill, entitled, *An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.*

After Debate, the Question was put, That it be an Instruction to the Committee of the whole House, to whom the said Bill stands committed, that they do provide, that no Punishment

| | | |
|-----------|----|------|
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| Proxies | 25 | |
| Not Cont. | 76 | } 91 |
| Proxies | 15 | |

shall be inflicted at any Court-Martial which shall extend to Life or Limb?

It was resolved in the Negative.

Dissentient

1st, Because the Exercise of Martial-Law, in Time of Peace, with such Power as is given by this Bill to inflict Punishments extending to Life and Limb, was not in the first Year of this Reign, nor hath in any former Reign been allowed within this Kingdom by Consent of Parliament, but hath, upon many Attempts made to introduce such a Power, been opposed and condemned by Parliament, as repugnant to *Magna Charta*, and inconsistent with the fundamental Rights and Liberties of a free People.

2dly, Because, after the Peace of Ryswick, and that

of *Utrecht*, in the several Reigns of King *William* and Queen *Anne*, of glorious and ever blessed Memories, no such Power was given to any Court-Martial; and it is well known, that the Forces then continued on Foot were kept in exact Discipline and Order.

3^{dly}, Because it is not ascertained, either by this Bill, or by any other known Law or Rule, what Words or Facts amount to Mutiny or Desertion, or to an exciting, causing or joining in Mutiny; and consequently the Judges in a Court-Martial have it in their Power to declare what Words or Facts they think fit to be Mutiny or Desertion, and to take away the Life of any Officer or Soldier, by such an arbitrary Decision.

4^{thly}, Because, should Death be thought the proper Punishment, in Time of Peace, for Mutiny or Desertion, or even for the least Disobedience to any lawful Command, yet, as we conceive, the Nature of such Offences ought first to have been ascertained by this Bill, and the said Offences being declared Capital, the Trial thereof ought to have been left to the ordinary Course of Law; in Consequence whereof, the Officers and Soldiers would, upon such Trials, have been intitled to all those valuable Privileges which are the Birth-right of every *Briton*; nor doth it appear to us, that any Inconvenience could thereby have arisen to the Publick in Time of Peace, at least, not any such as can justify our depriving the Soldiery of those legal Rights which belong to the meanest of their Fellow-Subjects, and even to the vilest Malefactors.

| | | |
|------------------------------|---------------------|------------------------|
| <i>W. Ebor,</i> | <i>De Loraine,</i> | <i>Belhaven,</i> |
| <i>Willoughby de Broke,</i> | <i>Bristol,</i> | <i>Tadcaster,</i> |
| <i>Rutland,</i> | <i>Lumley,</i> | <i>Bute,</i> |
| <i>Masbam,</i> | <i>Dartmouth,</i> | <i>Trevor,</i> |
| <i>Harcourt,</i> | <i>P. Hereford,</i> | <i>Foley,</i> |
| <i>Bingley,</i> | <i>Weston,</i> | <i>Mansell,</i> |
| <i>Fr. Roffen,</i> | <i>Oxford,</i> | <i>Fr. Cestriens,</i> |
| <i>Greenwich,</i> | <i>Northampton,</i> | <i>Strafford,</i> |
| <i>Abingdon,</i> | <i>Job. London,</i> | <i>Townshend,</i> |
| <i>Castleton,</i> | <i>Poulett,</i> | <i>Montjoy,</i> |
| <i>Devonshire,</i> | <i>Scarsdale,</i> | <i>Guilford,</i> |
| <i>Hay,</i> | <i>Gower,</i> | <i>Bathurst,</i> |
| <i>Berkeley of Stratton,</i> | <i>Boyle,</i> | <i>North and Grey.</i> |
| <i>Geo. Bristol,</i> | <i>Compton,</i> | <i>And.</i> |

| | | |
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And a Motion being made, and the Question put, That it be an Instruction to the said Committee of the whole House, that they do make an effectual Provision to secure the Obedi-

ence both of the Officers and Soldiers, to be continued by this Bill to the Civil-Magistrate according to Law?

It was resolved in the Negative.

Dissentient

1st, Because no Provision whatsoever is made by the Bill for securing the Obedience of the Military to the Civil Power, on which the Preservation of our Constitution depends.

2^{dly}, Because, we conceive, that a great Number of armed Men governed by Martial-Law, as they have it in their Power, so are naturally inclined, not only to disobey, but insult the Authority of the Civil-Magistrate; and we are confirmed in this Opinion, as well by the Experience of what hath happened here at home, as by the Histories of all Ages and Nations; from which it appears, that wheresoever an effectual Provision hath not been made to secure the Obedience of the Soldiers to the Laws of their Country, the Military hath constantly subverted and swallowed up the Civil Power.

| | | |
|------------------------------|------------------------|-------------------------------|
| <i>W. Ebor</i> , | <i>Devonshire</i> , | <i>North and Grey</i> , |
| <i>Willoughby de Broke</i> , | <i>Fr. Roffen</i> , | <i>Compton</i> , |
| <i>Belhaven</i> , | <i>Fr. Cestriens</i> , | <i>Geo. Bristol</i> , |
| <i>Bute</i> , | <i>Masbam</i> , | <i>De Loraine</i> , |
| <i>Bristol</i> , | <i>Lumley</i> , | <i>Townshend</i> , |
| <i>Castleton</i> , | <i>Abingdon</i> , | <i>Montjoy</i> , |
| <i>Bingley</i> , | <i>Harcourt</i> , | <i>Gower</i> , |
| <i>Foley</i> , | <i>Oxford</i> , | <i>Berkeley of Stratton</i> , |
| <i>Mansell</i> , | <i>Greenwich</i> , | <i>Northampton</i> , |
| <i>Guilford</i> , | <i>Rutland</i> , | <i>Hay</i> , |
| <i>Job. London</i> , | <i>Weston</i> , | <i>Poulett</i> , |
| <i>Scarsdale</i> , | <i>Strafford</i> , | <i>Trevor</i> , |
| <i>Dartmouth</i> , | <i>Tadcaster</i> , | <i>P. Hereford</i> , |
| <i>Bathurst</i> , | | |

Die Lunæ 24^o Februarii, 1717.

Hodie 3a vice lecta est Billa, entitled, An Act for punishing

nishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

Contents 67 }
Proxies 21 } 88

Then the Question was put, whether this Bill shall pass?

Not Cont. 40 }
Proxies 21 } 61

It was resolved in the Affirmative.

Dissentient

1st, Because the Number of Sixteen Thousand three hundred forty-seven Men is declared necessary by this Bill; but it is not therein declared, nor are we able, any Way, to satisfy ourselves from whence that Necessity should arise, the Kingdom being now (God be praised) in full Peace, without any just Apprehensions, either of Insurrections at home, or Invasions from abroad.

2^{dly}, Because so numerous Force is near double to what hath ever been allowed within this Kingdom, by Authority of Parliament, in Times of publick Tranquillity? and being, as we conceive, no Ways necessary to support, may, we fear, endanger our Constitution, which hath never yet been entirely subverted but by a standing Army.

3^{dly}, Because the Charge of keeping up so great a Force ought not unnecessarily to be laid on the Nation, already over-burthen'd with heavy Debts; and this Charge we conceive to be still more unnecessarily increased by the great Number of Officers now kept on the Establishment, in Time of Peace; a Number far greater (in Proportion to that of the Soldiers commanded by them) than hath ever yet been thought requisite in Times of actual War.

4^{thly}, Because such a Number of Soldiers, dispersed in Quarters throughout the Kingdom, may occasion great Hardships, and become very grievous to the People; and thereby cause or increase their Disaffection, and will, probably, ruin many of his Majesty's good Subjects on whom they shall be quartered, and who have been already by that Means greatly impoverished.

5^{thly}, Because such a standing Army, dangerous in itself to a free People in Time of Peace, is, in our Opinion, rendered yet more dangerous, by their being made subject to Martial-Law, a Law unknown to our Constitution, destructive of our Liberties, not endured

by our Ancestors, and never mentioned in any of our Statutes but in Order to condemn it.

6^{thly}, Because the Officers and Soldiers themselves thus subjected to Martial Law are thereby, upon their Trials, divested of all those Rights and Privileges which render the People of this Realm the Envy of all other Nations, and become liable to such Hardships and Punishments as the Lenity and Mercy of our known Laws utterly disallow; and we cannot but think those Persons best prepared and most easily tempted to strip others of their Rights who have already lost their own.

7^{thly}, Because a much larger Jurisdiction is given to Courts-Martial, by this Bill, than, to us, seems necessary for maintaining Discipline in the Army, such Jurisdiction extending not only to Mutiny, Desertion, Breach of Duty and Disobedience to military Commaads, but also to all Immoralities and every Instance of Misbehaviour which may be committed by any Officer or Soldier towards any of his fellow Subjects; by which Means the Law of the Land, in Cases proper to be judged by that alone, may, by the summary Method of Proceedings in Courts-Martial, be obstructed or superseded, and many grievous Offences may remain unpunished.

8^{thly}, Because the Officers constituting a Court-Martial do at once supply the Place of Judges and Jury-men, and ought therefore, as we conceive, to be sworn upon their trying any Offence whatsoever; and yet it is provided by this Bill that such Officers shall be sworn upon their trying such Offences only as are punishable by Death; which Provision we apprehend to be defective and unwarrantable by any Precedent, there being no Instance within our Knowledge, wherein the Judges of any Court, having Cognizance of capital and lesser Crimes, are under the Obligation of an Oath in Respect of the one and not of the other.

9^{thly}, Because the Articles of War thought necessary to secure the Discipline of the Army, in Cases unprovided for by this Bill, ought, in our Opinion, to have been inserted therein, in like Manner as the Articles and Orders for regulating and governing the Navy were inserted in the thirteenth Year of King Charles the Second to the End that due Consideration might have been

been had by Parliament of the Duty enjoined by each Article to the Soldiers, and of the Measure of their Punishment; whereas the Sanction of Parliament is now given by this Bill to what they have had no Opportunity to consider.

10^{thly}, Because the Clause in this Bill enabling his Majesty to establish Articles of War and erect Courts-Martial, with Power to try and determine any Offences to be specified in such Articles and to inflict Punishments for the same within this Kingdom in Time of Peace, doth (as we conceive) in all those Instances, vest a sole legislative Power in the Crown; which Power, how safely soever it may be lodged with his present Majesty, and how tenderly soever it may be exercised by him, may yet prove of dangerous Consequence, should it be drawn into Precedent in future Reigns.

11^{thly}, Because the Clause in the Bill, alledged to be made for enabling honest Creditors to recover their just Debts from Soldiers, seems to us rather to give a Protection to the Soldier than any real Advantage to his Creditor, or other Person having just Cause of Action against him; it protects the Person of a Soldier from Execution, as well as the *mesne* Process, for any Debt under ten Pounds; and it protects the Estate and Effects as well as the Person of every Soldier from all other Suits but for Debt, where the Cause of Action doth not amount to the like Sum; and in other Cases, where the Cause of Action exceeds that Value, Plaintiffs are in many Instances put under such unreasonable Difficulties, that, we conceive, before they can be allowed even to commence their Suit, their bare Compliance therewith may become more grievous to them than the Loss of their Debt, or a quiet Submission to the Wrong sustained; by which Means his Majesty's good Subjects may be highly injured in their Properties, and insulted in their Persons by the Soldiery, and yet be deprived of the legal Remedies appointed for the Redress of such Grievances.

W. Ebor',
Compton,
Dartmouth,
Hay,

Fran. Cestriens',
Bute,
Tadcaster,
Bingley,

Bristol,
North and Grey.
Harcourt,
Batburst,

Straf

| | | |
|-------------------|---------------------|---------------------|
| <i>Strafford,</i> | <i>Scarsdale,</i> | <i>Gower,</i> |
| <i>Boyle,</i> | <i>Litchfield,</i> | <i>Poulett,</i> |
| <i>Guilford,</i> | <i>Foley,</i> | <i>Northampton,</i> |
| <i>Greenwich,</i> | <i>Mansell,</i> | <i>P. Hereford,</i> |
| <i>Weston,</i> | <i>Fr. Roffen',</i> | <i>Montjoy,</i> |
| <i>Trevor,</i> | <i>Abingdon,</i> | <i>Oxford.</i> |

Die Sabbati 8^o Martii, 1717.

Hodie 3^a vice lecta est Billa, entitled, An Act to im-
power the Commissioners appointed to put in Execution
the Acts of the ninth and tenth Years of her late Maje-
sty's Reign for building fifty new Churches in and about
the Cities of *London* and *Westminster* and Suburbs there-
of, to direct the Parish-Church of *St. Giles in the Fields*
in the County of *Middlesex* to be rebuilt instead of one
of the said fifty new Churches.

Then it being moved, that in the third Line of the
1st Pref. after the Words [*Queen Anne*] the Words [of
pious Memory.] may be there inserted,

The same was objected to.

Contents 33 After Debate, the Question was put,
Not Cont. 54 whether the said Words [of pious
Memory] shall be there inserted?

It was resolved in the Negative.

Dissentient'

Because we cannot but judge these Words [of pious
Memory] highly decent and proper to have been in-
serted in a Bill reciting two pious and gracious Acts of
Parliament passed in the Reign of her late Majesty, for
the rebuilding of fifty new Churches? a Work earnestly
recommended by her Majesty to her Parliament, and by
them declared to be so much for the Honour of God,
the spiritual Welfare of her Majesty's Subjects, the In-
terest of the established Church, and the Glory of her
Majesty's Reign.

| | | |
|-----------------------------|----------------------|-----------------------------|
| <i>W. Ebor',</i> | <i>Job. London,</i> | <i>P. Hereford,</i> |
| <i>Fran. Cestriens',</i> | <i>Geo. Bristol,</i> | <i>North and Grey,</i> |
| <i>Compton,</i> | <i>Boyle,</i> | <i>Mansell,</i> |
| <i>Willoughby de Broke,</i> | <i>Maskam,</i> | <i>Berkeley of Stratton</i> |
| <i>Buckingham,</i> | <i>Fr Roffen',</i> | <i>Oxford,</i> |
| <i>Poulett,</i> | <i>Foley,</i> | <i>Bathurst.</i> |
| <i>Strafford,</i> | | |

Then

Then after further Debate in relation to the aforementioned Bill,

| | | |
|-----------|----|------|
| Contents | 49 | } 70 |
| Proxies | 21 | |
| Not Cont. | 38 | } 63 |
| Proxies | 25 | |

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because it doth not appear to us, from any Declaration in his Majesty's Name to either House of Parliament, that his Royal Leave was given for bringing in the said Bill, as, we humbly conceive, it ought to have been, for bringing in a Bill of this Nature.

2^{dly}, Because this Bill, in our Opinion, manifestly tends to defeat the Ends and Purposes of two Acts of Parliament for building fifty new Churches, and yet at the same Time asserts that the Intention of the said Acts would be hereby answered.

3^{dly}, Because this Bill further asserts, That the Parish of St. Giles is in no Condition to raise or pay the Sum of three thousand Pounds and upwards for the Repair of its Parish-Church, which we apprehend to be evidently false in Fact; and if true, to be no Reason for rebuilding the said Church out of the Fund given for building fifty new Churches.

4^{thly}, Because this Bill moreover asserts, That the said Parish, when rebuilt, and the Church, which is now building in the said Parish, by Virtue of the Acts for building fifty new Churches, will be sufficient for the Inhabitants of the said Parish; whereas we are credibly informed, and, upon the best Calculation, do believe, that there are about forty thousand Souls in the said Parish, and do think, that three new Churches, together with the present Parish-Church, will be barely sufficient for that Number.

5^{thly}, Because if this Precedent of rebuilding old Churches out of the Fund appropriated for building new ones should be followed, and the Ends of the abovesaid Acts should be thereby in any great Measure defeated, we are apprehensive, that many Thousands of his Majesty's good Subjects in and about these populous Cities will be left unprovided of Churches, whereunto they may resort for the publick Worship of God, and will thereby

thereby remain destitute of the necessary Means of being instructed in the true Christian Religion, as it is now professed in the Church of England, and establish'd by the Laws of this Realm.

| | | |
|------------------------------|------------------------|-------------------------|
| <i>W. Ebor</i> , | <i>Job. London</i> , | <i>P. Hereford</i> , |
| <i>Geo. Bristol</i> , | <i>Strafford</i> , | <i>North and Grey</i> , |
| <i>Willoughby de Broke</i> , | <i>Batburst</i> , | <i>Masbam</i> , |
| <i>Berkely of Stratton</i> , | <i>Poulett</i> , | <i>Foley</i> , |
| <i>Fr. Roffen</i> , | <i>Fr. Cestriens</i> , | <i>Boyle</i> . |
| <i>Mansell</i> , | <i>Oxford</i> , | |

Die Martis 11^o Martii, 1717.

Hodie 3a vice lecta est Billa, entitled, An Act for vesting the forfeited Estates in Great-Britain and Ireland in Trustees, to be sold for the Use of the Publick, and for giving Relief to lawful Creditors, by determining the Claims, and for the more effectual bringing into the respective *Exchequers* the Rents and Profits of the said Estates till sold.

Contents 55 }
Proxies 27 } 82

The Question was put, whether this Bill shall pass?

Not Cont. 45 }
Proxies 31 } 76

It was resolved in the Affirmative.

Dissentient

1st, Because, we humbly conceive, that the Charges of this Commission are a very great and unnecessary Burthen on the Publick, and will swallow up a great Part of that Fund the Commissioners are appointed to be Guardians of; whereas the Ends of that Trust, which is lodged in them by this Bill, might have been more easily, more justly, and with less Expence, attained by the known and ordinary Course of the Law.

2^{dly}, Because there is erected in this Bill a Court of Judicature with strange and new Powers, *viz.* in a summary Way, and without the Formality of Proceedings in the Courts of Law or Equity to proceed by, and upon the Testimony of Witnesses upon Oath; Examination of Persons claiming, or otherwise interested upon their Oaths, Inspection and Examination of Deeds, Writings and Records; and by all or any of the said Ways and Means, or otherwise, according to the Circumstances

cumstances of the Case, or of the Persons claiming, as soon as conveniently may be, to hear, determine and adjudge all and every Claim and Claims : Which Words seem to contain the most arbitrary and unlimited Authority that can possibly be created ; and in particular, the Expression concerning the Circumstances of the Persons is not only unknown to our Laws, but prescribes a Rule which was never yet thought to be a proper Ingredient in the impartial Administration of Justice.

3dly, Because there is in this Bill a Penalty laid on the Witnesses who shall forswear themselves to support any Claim, but no Punishment inflicted on those who shall make false Oaths in Order to defeat any just Demand.

4thly, Because there is nothing in this Bill which incapacitates the Commissioners, or any in Trust for them, to purchase Claims on the forfeited Estates ; and yet in Case they should make such Purchases, they will become both Judges and Parties in the same Cause, and consequently be exposed to Temptations of a great and dangerous Nature.

5thly, Because the reversing and making void all Acts and Decrees of any Court of Judicature, passed since the 24th Day of *June* 1715, concerning any Right, Charge or Interest out of any of the forfeited Estates, and the not saving to all Creditors and other Claimants such Right as they had before the passing this Bill, does greatly endanger, if not totally make void the just Demands of such Creditors or other Claimants, which they have not only in many Cases a Right to by the ancient Laws of their Country, but which are secured to them (at least in that Part of *Great-Britain* called *Scotland*) by the Faith of an Act of Parliament, as a future Reward of their dutiful and loyal Behaviour to his Majesty and his Government, when the Nation was threaten'd with the greatest Dangers ; which Reward has been confirmed to them by a subsequent Act.

6thly, Because the Time of entring Claims on Estates forfeited, or to be forfeited before the 24th of *June*, 1718, is allowed no farther then to the first of *June* in the said Year ; whereby all Creditors, Claimants, and *Bona Fide* Purchasers of Estates, which may be forfeited be-

tween the first and twenty-fourth of *June* aforesaid, are absolutely and expressly barred and excluded.

7thly, Because the setting up a new Court of Judicature for Claims on forfeited Estates, in any Part of *Great-Britain*, is wholly unprecedented, and the Privileges and Jurisdiction of this House are thereby diminished and endangered, but much more so, by the reversing Decrees of Courts of Judicature already made, which, whether they are erroneous or legal, ought (as the Constitution of this Kingdom now is, and hath hitherto been) to be reviewed, reversed, or affirmed by no other Jurisdiction whatsoever, but that which is inherent in *the House of Lords*.

8thly, Because the Court of Session is by this Bill discharged from exercising their lawful Jurisdiction, notwithstanding that the Foundation of the Constitution of the United Kingdom of *Great-Britain* is the Articles of the Union; wherein it is expressly stipulated, That the Court of Session shall remain in all Times coming as it was then constituted, with the same Authority and Privileges as before the Union; and though the said Court was subjected to Regulation, for the better Administration of Justice, yet the Jurisdiction of it was in no Case to be totally extinguished.

9thly, Because the erecting new Jurisdictions with such indefinite Powers, exclusive of *the House of Lords*, the making void or endangering the Rights of great Numbers of lawful Creditors or other Claimants, secured to them by the Laws, and the depriving the Courts of Justice of their Judicature as aforesaid, we humbly apprehend, cannot but raise the highest Discontents in the Minds of his Majesty's Subjects.

| | | |
|-----------------------------|------------------------|--------------------|
| <i>Buckingham,</i> | <i>Plimouth,</i> | <i>Greenwich,</i> |
| <i>Strafford,</i> | <i>North and Grey,</i> | <i>Boyle,</i> |
| <i>Poulett.</i> | <i>Mansell,</i> | <i>Weston,</i> |
| <i>Geo. Bristol,</i> | <i>Fr. Roffen',</i> | <i>Litchfield,</i> |
| <i>Bathurst,</i> | <i>Northampton,</i> | <i>Belhaven,</i> |
| <i>Willoughby de Broke,</i> | <i>Compton,</i> | <i>Foley,</i> |
| <i>De Loraine,</i> | <i>Tadcaster,</i> | <i>Masbam,</i> |
| <i>Trevor,</i> | <i>Guilford,</i> | <i>Montjoy.</i> |
| <i>Oxford,</i> | <i>Hay,</i> | |

Die Lunæ 17^o Martii, 1717.

Hodie 3a vice lecta est Billa, entitled, An Act for the better explaining several Acts therein mentioned for erecting of Hospitals and Workhouses within the City of *Bristol*, for the employing and maintaining the Poor thereof, and for making the said Acts more effectual.

Contents 58 After Debate, the Question was put,
Not Cont. 22 whether this Bill with the Amendment
shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the comprehensive Latitude of this Bill is such, that all Persons without Discrimination, whether well or ill affected to our Constitution in Church or State, *Papists* as well as *Protestants*, *Nonjurors* as well as those who take the Oaths, *Jews* as well as *Christians*, are alike capable of being admitted into the Corporation to which this Bill refers; and of sharing all the Trusts and Powers lodged in the Members thereof.

2^{dly}, Because this Bill, whilst it complains of the Difficulty of finding a sufficient Number of proper and well-qualified Persons to be elected and constituted Guardians and Officers of the said Corporation, and, to avoid that pretended Difficulty, lets in Dissenters; doth at the same Time shut out seventeen Church-Wardens, who, by a former Act, were incorporated therein, and who, by the Constitution, have the Care of the Poor in a special Manner intrusted with them.

3^{dly}, Because this Bill repeals a Law, by which the Dissenters were excluded from Places and Offices in this Corporation, and this Repeal may hereafter be made Use of as a Precedent for abrogating other Laws, as yet in Force, in Order to the Admission of Dissenters into all Places and Offices whatsoever.

4^{thly}, Because this Bill, by exempting Guardians and Officers therein mentioned from the Penalties and Forfeitures of the Corporation and Test Acts, doth, in our Opinion, very much weaken the Force of those Acts, which are declared by the Legislature to have been made for the Security of the *Church of England*, as by Law established, and, as such, are, we conceive, rati-

fied and made perpetual by that Clau'e in *the Act of Union*, which enacts, (That the Act for the Ministers of the *Church of England* to be of sound Religion, and *the Act for the Uniformity*, and all and singular other Acts of Parliament, then in force, for the Establishment and Preservation of the *Church of England*, shall remain and be in full Force for-ever.)

| | | |
|----------------------|------------------------|-----------------|
| <i>Geo. Bristol,</i> | <i>Mansell,</i> | <i>Compton,</i> |
| <i>Hay,</i> | <i>Jonat. Winton',</i> | <i>Oxford,</i> |
| <i>Strafford,</i> | <i>Job. London,</i> | <i>Boyle,</i> |
| <i>Bathurst,</i> | <i>Montjoy,</i> | <i>Weston.</i> |
| <i>Fr. Roffen',</i> | | |

Die Veneris 17^o Aprilis, 1719.

A long Report being made from a Committee appointed to examine what Sums of Money have been issued, or ordered to be issued out of the Chamber of *London*, for the Prosecuting, Defending or Maintaining certain Causes on Writs of Error in this House, or any other Causes of the like Nature, for such Time passed as the Committee shall think proper, and by what Warrant or Authority, and on whose Application,

And after Debate had thereupon, the

Contents 46
Not Cont. 17

Question was put, that it is the Opinion of this House, that *the Common Councils of London*, having issued great Sums of Money out of the Chamber of *London*, in maintaining several Suits at Law, between Citizen and Citizen, relating to controverted Elections, have abused their Trust, and been guilty of great Partiality and of a gross Mismanagement of the City Treasure, and a Violation of the Freedom of Elections in the City?

It was resolved in the Affirmative.

Dissentient'

1st, Because no Proof upon Oath was made before the Committee, of any one of the Facts mentioned in the Report; and we conceive, that without a due Proof, upon Oath, being first made, so heavy a Censure ought not to be passed on any Person whatsoever, much less on so considerable a Body as *the Common Council* of the City of

of *London*, who have been, on many pressing Occasions, eminently serviceable to the Publick.

2dly, Because *the Common Council* of the City of *London* have never been heard to the several Matters of which they stand condemn'd by this Resolution, nor have they been any Way made acquainted, as far as appears to us, that they stood accused before this House of any Misbehaviour whatsoever.

3dly, Because the several Matters or Offences, specified in this Resolution, are properly cognizable in Courts of Law or Equity; and this Resolution may, we fear, be construed as a Determination of such Matters as may possibly hereafter be brought again before this House judicially, by Writ of Error or Appeal.

4thly, Because the several Sums of Money mentioned in the Report to have been issued by *the Common Council* out of the Chamber of the City of *London*, in Relation to controverted Elections, might possibly, had *the Common Council* been heard, have appeared to have been so issued by them in Defence of their ancient Rights and Privileges, and in Order to prevent any Incroachment thereupon.

Buckingham,
Montjoy,
Harcourt,
Mansell,
Batburst,
Bingley,

Compton,
Trevor,
Gower,
Strafford,
Carleton,

Bruce,
Oxford,
Weston,
Northampton,
Felcy.

Die Martis 10^o Januarii, 1720.

Upon Report from the Committee of the whole House, to whom it was referred to take into Consideration the Causes of the unhappy Turn of Affairs that has so much affected the publick Credit, That they had come to the following Resolution, *viz.*

(That it is the Opinion of this Committee, that the Constitution from the Commissioners of the Treasury, dated the 6th of *May* 1720, appointing the Directors of the *South-Sea* Company to be Managers and Directors for performing such Matters and Things as, by the Act for enabling the said Company to increase their present

capital Stock, are directed, has been conformable to Precedents, and legal.)

Then the said Resolution being read by the Clerk, the Question was put, That the House do agree with the Committee in this Resolution ?

It was resolved in the Affirmative.

Dissentient

1st, Because the Act of the last Session of Parliament for enabling the *South-Sea* Company to increase their capital Stock (upon which Act the Legality of the Constitution in the Question must wholly depend) hath vested the Directors and Managers to be appointed by the Commissioners of the Treasury with such Trusts and Powers, and required such Things to be done by them, as, we conceive, could not be intrusted to the Directors of the *South-Sea* Company to execute, according to the true Intent and Meaning of the said Act.

2^{dly}, Because we conceive it to be inconsistent with the said Act, that the Directors and Managers appointed by the Commissioners of the Treasury (who by the Act are intrusted to ascertain what Annuities shall be taken in, and what Debts paid off by the said Company; what Additions, in Respect thereof, shall be made to the capital Stock of the said Company; how much is to be paid by the said Company into the *Exchequer* for the Use of the Publick; what new Allowance is to be made to the same Corporation for Charges of Management; to enter into Books the Prizes to be agreed on between the Company on the one Part, and the Proprietors of the publick Debts on the other Part; to adjust the Accounts of the Debts and Annuities taken in by the Company; and to certify and transmit Duplicates of the Accounts so adjusted, among others, to the Directors of the *South-Sea* Company) should be the Directors of the *South-Sea* Company, and they only.

3^{dly}, Because the said Directors of the Company appear to us plainly to be concerned in Interest, so as to incline them to execute the said Powers or Trusts partially for the Company, unless restrained by a great Degree of Honesty; and if there should be any Mistake by them committed, wilfully or otherwise, to the Advantage of the Company and Disadvantage of the said Proprietors,

Proprietors, in any the Matters intrusted to the said Directors and Managers, we do not find any Provision in the said Act to rectify the same, nor conceive how it can be done, unless by Application to, and by Consent of the said Directors and Managers, who are the Directors of the *South-Sea* Company, and no other; which, we think, could never be the Meaning of the Act, but that the Intent thereof must be, that the said Trusts of Directors and Managers should have been executed by impartial and indifferent Persons.

4thly, We conceive, that the said Act expressly requires the Commissioners of the Treasury to appoint fit Persons to be Directors and Managers for executing the Powers and Trusts above specified; and therefore, if the abovementioned Reasons did not sufficiently prove the Constitution in the Question not to be agreeable to the said Act, yet it seems very clear to us, that the Directors of the *South-Sea* Company were, of all others, the most unfit for such a Trust, and consequently not such Persons as are expressly required by the said Act.

And we cannot agree, that the said Constitution is precedent.

1. Because the Precedents produced are all in Time before the passing the Act of Parliament, on which the present Question did arise; and therefore, in our Opinion, can be of no Weight in determining any Question that dependeth on the Construction of the said Act, unless such Precedents had been founded on some former Act or Acts of Parliament, the same in all material Points with the Act abovemention'd; which, it appears to us, neither the said Charter, nor Commissions or Appointments produced as Precedents were.

2. All the Cases relied on, as Precedents (except the last) are, as we conceive, widely differing from the Case in Question; that marked No. 1. is dated before the Erection of the *South-Sea* Company, and therefore did not, nor could confer any Powers on the Directors of the Company, which was not then in Being, but is directed to the Members of other Corporations, divers great Officers, and very many other Persons, in Order to the erecting the *South-Sea* Company; the five following, from No. 2 to No. 6, included, are indeed to

impower the Directors of the *South-Sea* Company, but 'tis only to take Subscriptions of Tallies, Orders, Debentures, and the like Government Securities, and to compute the Interest due thereon, in order to the admitting the Proprietors into the Company, at the Rates stated in the Acts of Parliament, to which the Charter and Commissions relate; but none of them impower the Directors of the *South-Sea* Company to enter, adjust, or certify, or to do any Matter relating to Contracts to be made, whereto the Company was to be made a Party, as in the present Case.

3. And as to the said last Case, cited as a Precedent, marked No 7. which comes the nearest to the present, the Directors of the *South-Sea* Company being thereby appointed Directors and Managers (which they are not by any of the former) to execute all the Powers given to Directors and Managers by the Act of the fifth of his present Majesty, for redeeming the Fund appropriated for the Payment of the Lottery-Tickets, yet neither by that Appointment, or the Act refer'd to, had the Directors of the *South-Sea* Company any Authority to do any thing in relation to Contracts or Bargains to be made, wherein the Company was to be made a Party; and therefore not to be compared to the present Case.

4. But if the said last and only Precedent, not before taken notice of, had been a Precedent in Point, yet it bearing Date no longer ago than the 4th of *May*, 1719, and being signed by four of the five Commissioners of the Treasury, who have sign'd the Appointment, which it is brought to justify, and having passed under silence, no Occasion having happen'd to draw the Validity thereof into Question, it could be, as we conceive, of no Authority to support the said last Appointment when it was drawn in Question, and ordered to be considered by the Committee of the whole House appointed to enquire into the Causes of the late unhappy Turn of Affairs, which has so much affected the Publick Credit at home.

For the aforesaid Reasons, and lest it might be deemed to be a prejudging of a Matter that may possibly be brought judicially before us.

Wharton.

| | | |
|--------------------|------------------------|-----------------------------|
| <i>Wharton,</i> | <i>North and Grey,</i> | <i>Guilford,</i> |
| <i>Compton,</i> | <i>Weston,</i> | <i>Scarsdale,</i> |
| <i>Litchfield,</i> | <i>Cowper,</i> | <i>Aylesford,</i> |
| <i>Abingdon,</i> | <i>Gower,</i> | <i>Strafford,</i> |
| <i>Bingley,</i> | <i>Bathurst,</i> | <i>St. John de Bletsoe.</i> |

Die Mercurii 8^o Martii, 1720.

The House (according to Order) resumed the adjourned Debate which arose on *Saturday* last, upon the Report then made from the Committee of the whole House to whom the Bill entitled, *An Act to preserve and encourage the Woollen and Silk Manufactures of this Kingdom, and for the more effectual employing the Poor by prohibiting the Use and Wear of all printed, painted, stained or dyed Callicoes in Apparel, Household-stuff, Furniture, or otherwise, after the 25th of December, 1722 (except as therein is excepted)* was committed, That the Committee had gone through the said Bill without any Amendment.

And it being proposed in the 19th Line of the 1st Press to leave out the Word [two] and insert the Word [one] in order to shorten the Time of the Commencement of the said Bill,

After Debate, the Question was put,
 Contents 71 whether the Word [two] shall stand as
 Not Cont. 29 Part of the Bill?

It was resolved in the Affirmative.

Dissentient

1st, Because it appears to us very extraordinary, and as we believe is unprecedented, that any Bill of this Nature should not take Effect till so long after the passing thereof, and even almost a Year after the Parliament, in which it is passed, must legally determine.

2^{dly}, We think the Delay in this Case the more unreasonable, the Miseries of the People proposed to be remedied by this Bill requiring a speedy Redress; and after the Loss of the like Bill the last Sessions, deferring the Relief for near two Years longer may, we fear, reduce the poor Manufacturers to such Want as may endanger the Publick Peace, or make as many as can turn themselves to other Business, to the Ruin of the Woollen Manufactures of this Kingdom.

3^{dly}, We conceive, that till the Bill shall take Place, it will rather encourage than hinder the buying of printed Callicoës, which is at present obstructed, by the Apprehension of a much nearer and stricter Prohibition; but when it shall be known not to extend to any Callicoës which shall be made in Furniture before the 25th of *December*, 1722, and that the same may be continued in Use till worn out, it cannot but be a great Inducement to the People to furnish themselves therewith.

4^{thly}, We do not think it improbable, considering the mighty Influence the great Companies may have on publick Affairs, but that Attempts may be made, even before the Provisions of the Act take Place, to repeal it; and we cannot take upon us to determine what the Sense of a new Parliament may be on this Subject.

5^{thly}, And we apprehend the deferring the Remedy of the Mischiefs, set forth in the Preamble of the Bill, for so long a Time, may disappoint, in a great measure, the Hopes which the People of this Kingdom have so justly entertained of having an End put to the Difficulties the Woollen Manufactures lie under in this Session of Parliament.

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| <i>St. John de Bletsoe,</i> | <i>Litchfield,</i> | <i>Cowper,</i> |
| <i>Masbam,</i> | <i>Hay,</i> | <i>Craven,</i> |
| <i>Essex,</i> | <i>Wharton,</i> | <i>Boyle,</i> |
| <i>Mansell,</i> | <i>Brooke,</i> | <i>Bathurst,</i> |
| <i>Aylesford,</i> | <i>Scarsdale,</i> | <i>Abingdon,</i> |
| <i>Gower,</i> | <i>Stafford,</i> | <i>Uxbridge.</i> |
| <i>North and Grey,</i> | <i>Guilford,</i> | |

Die Lunæ 13^o Novembris, 1721.

The House (according to Order) proceeded to take into Consideration his Majesty's most Gracious Speech from the Throne.

And the same being read,

A Motion was made that this House do, on *Friday* next, take into Consideration the Causes of contracting so large a Navy-Debt, and the best Methods of preventing the contracting the like Debt for the future.

And a Question being stated thereupon,

It was proposed to leave out the Words following, *viz.* [and the best Methods of preventing the contracting the like Debt for the future.]

Con-

After Debate, the Question was put,
 Contents 22. whether these Words [and the best
 Not Cont. 94. Methods of preventing the contract-
 ing the like Debt for the future]
 shall stand Part of the Question?

It was resolved in the Negative.

Dissentient.

1st, Because the principal End of all Parliamentary Inquiries into Mis-managements being to prevent the like for the future, we thought it more agreeable to the Candour and Honour of the House to express it plainly in the Question itself, than leave it to be implied only; and the rather, because it seemed to us, the Words left out clearly imported that nothing personal was in View, but the Publick-Good only, which, we thought, would rather have given Satisfaction to the Minds of every noble Lord, than the Contrary.

2^{dly}, When the Words now ordered to be left out were, for the Reason given, so properly and naturally, as we conceive, made a Part of the Question, we could not but apprehend that the laying them aside on Debate might create a Suspicion, tho' unjust, that this House did not intend to prevent, if possible, the contracting a large and inconvenient Navy-Debt for the future.

3^{dly}, His Majesty having, in his Speech from the Throne, observed the ill Consequences that arise from such a large Debt remaining unprovided for, we thought it very proper, if not necessary, in the Resolution taken, to enter into the Consideration of that Debt, to express a Desire of preventing the like inconvenient Debt being contracted for the future; and that the doing so did not at all prejudice the Causes of contracting the present great Navy-Debt; for however necessarily or justifiably an inconvenient Thing might have once happen'd, yet we think it ought, if it can, to be prevented from happening so again.

4^{thly}, His Majesty having likewise observed in his Speech from the Throne, that this Part of the National-Debt is, of all others, the most heavy and burthensome; and having set forth the Mischiefs arising from the high Discount on the Navy and Victualling Bills, we thought ourselves sufficiently warranted to express a Desire to consider

confide: of the best Methods of preventing the like most heavy and burthensome Debt, whatever the Causes of contracting the present Debt shall, on Inquiry, appear to be; and this the rather, because the like Navy-Debt can bring no manner of Benefit, either to the Publick or any private Person, but to such as, by foreseeing when it is either to be discharged or provided for, may make an excessive Advantage to themselves by buying up the said Bills while under a very high Discount.

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| <i>W. Ebor,</i> | <i>Scarsdale,</i> | <i>Salisbury,</i> |
| <i>Bristol,</i> | <i>Asbburnham,</i> | <i>Fr. Roffen,</i> |
| <i>Bathurst,</i> | <i>Trevor,</i> | <i>Aylesford,</i> |
| <i>Aberdeen,</i> | <i>Guilford,</i> | <i>Cowper,</i> |
| <i>Bingley,</i> | <i>Wharton,</i> | <i>North and Grey,</i> |
| <i>Strafford,</i> | <i>Boyle,</i> | |

Die Mercurii 15^o Novembris, 1721.

The House (according to Order) proceeded to take into further Consideration his Majesty's most Gracious Speech from the Throne.

After Debate, the Question was put, that
 Contents 21 an humble Address be presented to his
 Not Cont 63 Majesty, humbly to desire that his Majesty will be graciously pleased to give Orders, that the Instructions given by his Majesty to the Lord Carteret, as Minister or Plenipotentiary to the Crown of Sweden, or any other of the Northern Crowns, may be laid before this House?

It was resolved in the Negative.

Dissentient'

1st, Because we apprehend this to be the first Instance to be found in our Journals, where the Lords have moved for a Sight of Instructions of any Kind, and have not been supported by the House in that Motion; and though we wish it may be the last, yet have we just Reason to fear, that such a Precedent once made will not fail of being followed in succeeding times.

2^{dly}, Because we do not apprehend, how the Calling for Instructions after the Conclusion of the Treaty to which they relate, and the Intervention of a general Act of Pardon, can be hurtful either to the Publick or even to the Ministers transacting such Treaties; but the refusing.

ing to call for those Instructions may, in our Opinion, be a Matter of dangerous Consequence, in as much as it tends to discourage Inquiries of this kind for the future, and by that Means to embolden and screen guilty Ministers hereafter.

3dly, Because tho' we acknowledge the Right of Peace and War to be in the Crown, yet we must be of opinion, that this House hath also a Right to inquire into the Transactions of Ministers employed under the Crown, and to censure their Conduct, when Justice requires it; which cannot well be done, unless it be first known, what sort of Instructions they received, and how far they have, or ought to have complied with them; and this seems to us more particularly necessary, since the *Act of Succession* has declared, that this Kingdom shall not be engaged in a War, on account of any of the King's foreign Dominions; all Treaties therefore with Princes in the North should, above all other, be made in the plainest and most unexceptionable Terms; or if the way of wording such Treaties shall occasion any Doubt, no Method of clearing it should be neglected or avoided, that so this House and the whole Kingdom may be satisfied, that nothing has passed derogatory to that Act, which is the Basis on which our present happy Establishment is founded.

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|------------|------------|-----------------|
| W. Ebor', | Wharton, | North and Grey, |
| Guilford, | Cowper, | Uxbridge, |
| Boyle, | Bingley, | Strafford, |
| Scarsdale, | Aylesford, | Bristol, |
| Aberdeen, | Batburst, | F. Roffen'. |

Die Lunæ 20^o Novembris, 1721.

The House (according to Order) proceeded to take into further Consideration his Majesty's most Gracious Speech from the Throne.

After Debate, the Question was put, that

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| Contents 22 | an humble Address be presented to his |
| Not Cont. 59 | Majesty, humbly to desire that his |
| | Majesty will be graciously pleased to |
| | give Orders, that the Treaty of Commerce, whereby |
| | the former Treaties of Commerce are renewed with |
| | <i>Spain</i> , may be laid before this House? |

It was resolved in the Negative.

Dissentient

Because, as we believe, the refusing to address for a Treaty, which has been concluded and ratified so long since, is altogether unprecedented; and, we conceive, this Case, of all others, ought not to have been made a Precedent, where the Treaty desired to be call'd for hath been twice mentioned from the Throne to both Houses of Parliament; and the last Time, in his Majesty's Speech at the opening of this Session, expressly (as we cannot but apprehend) recommended to the Consideration of both Houses of Parliament.

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| <i>W. Ebor',</i> | <i>Wharton,</i> | <i>Strafford,</i> |
| <i>Aberdeen,</i> | <i>Aylesford,</i> | <i>Bristol,</i> |
| <i>F. Roffen',</i> | <i>Bathurst,</i> | <i>North and Grey,</i> |
| <i>Guilford,</i> | <i>Cowper,</i> | <i>Boyle,</i> |
| <i>Bingley,</i> | <i>Fran. Cestriens',</i> | <i>St. John de Bletjoe.</i> |

Die Martis 5^o Decembris, 1721.

The Order of the Day for the House to be in a Committee again to take into further Consideration the Causes of contracting so large a Navy-Debt, and the Lords to be summoned, being read,

The House was adjourned during Pleasure, and put into the said Committee.

And after some Time spent therein, the House was resumed.

Then a Motion was made, that the employing great Numbers of Seamen for several Years last past, more than were provided for by Parliament, was one great Cause of contracting so large a Navy-Debt, and of increasing the same, from the Sum of seven hundred sixty four thousand eighty eight Pounds three Shillings and eleven Pence, which was the Nett-Debt of the Navy on the 31st of December, 1717, to the Sum of One Million six hundred forty one thousand nine hundred thirty seven Pounds seventeen Shillings and eight Pence three Farthings, which was the Nett-Debt of the Navy on the 30th of December last.

And a Question being stated thereupon,

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| <i>Content</i> | <i>21</i> | After Debate, the previous Question was put, whether the said Question shall be now put? |
| <i>Not Cont.</i> | <i>60</i> | |

It

It was resolved in the Negative.

issentient'

Because the main Question being so true in every Particular, that, as we could observe, the Truth thereof was not denied by any Lord in the Debates, but seems to us to be admitted by the proposing and carrying the previous Question, we think it highly expedient that the main Question should have been put and voted in the Affirmative, to the End we might have expressed our Disapprobation at the least of the Practice of employing much greater Numbers of Seamen in the Fleet, for several Years last past, than were provided for by Parliament (when the Occasion for employing them could not, in our Opinion, but be foreseen) and by such our Disapprobation might have discouraged, in some Measure, that Practice for the future, and prevented the increasing of the Navy-Debt again by the like Proceeding.

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| <i>Strafford,</i> | <i>Trevor,</i> | <i>Fran. Cestriens',</i> |
| <i>Boyle,</i> | <i>North and Grey,</i> | <i>F. Roffen',</i> |
| <i>Uxbridge,</i> | <i>Litchfield,</i> | <i>Guilford,</i> |
| <i>Aylesford,</i> | <i>Bingley,</i> | <i>Aberdeen,</i> |
| <i>Cowper,</i> | <i>Gower,</i> | <i>Foley,</i> |
| <i>Bristol,</i> | <i>Bathurst,</i> | <i>St. John de Bletsoe,</i> |

Die Mercurii 6^o Decembris, 1721.

A Petition of the City of *London* was presented and read, praying to be heard by their Council, or otherwise, in Relation to a Bill for the Amendment of an Act passed last Session for preventing the Plague being brought hither from Foreign Parts.

And a Motion being made, that the said Petition be rejected,

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| | After Debate, the Question was put, |
| Contents 48. | whether the said Petition shall be re- |
| Not Cont. 22. | jected? |

It was resolved in the Affirmative.

Dissentient'

1st, Because the Liberty of petitioning the King (much more than the petitioning either House of Parliament) is the Birth-right of the free People of this Realm, claimed by them, and confirmed to them soon after the Revolution, in an Act, declaring the Rights and Liberties of the

ral and reasonable, than that any corporate Body if they desire it, be heard upon any Bill under the consideration of Parliament, whereby they judge the particular Interests to be highly, tho' not solely affected.

This Liberty we remember to have been granted in the late Session, to the Traders of *Norwich*, upon their petition touching the Callicoe-Bill; nor are we aware that it hath ever, in like Circumstances, been refused to any meanest Corporation in the Kingdom; but if it is humbly conceive, that in this Case a Distinction should have been made in favour of the City of *London*, being the Center of Credit, of the Trade and Interest of the Kingdom, and the Place where the Petition should we be visited by it, is most likely first to be heard, and having also remarkably suffered by means of the late fatal *South Sea* Scheme, was, we think, in a peculiar manner intitled to apply for Relief against the Clauses in *the Quarantine-Act*, and deserved to have been treated on that Occasion with more Indulgence and leniency.

3dly. Because the rejecting the said Petition tends to discourage, to discountenance all Petitions for the relief of the City in Cases of a publick and general Concern, and means to deprive the Legislature of proper Lights and Information, which they might otherwise receive, it being no ways proper that the City should be thus treated.

to the Government, which hath already too much prevailed in this Kingdom.

5thly, Because the Arguments used in the Debate seem, to us, not to be of sufficient Force ; for we cannot conceive, that because the said Act of Quarantine is a general Act, therefore no particular Community or City, who think they may, in a distinguishing manner, be prejudiced by it, have a Right to be heard in relation to it ; and that at a Time when it is under the Consideration of Parliament ; nor can we be of Opinion, that a Petition agreed on by the Lord-Mayor, Aldermen and Citizens of *London*, in *Common-Council* assembled, and presented, not even by the Numbers allowed by Law, but by a Lord of this House, can possibly be a Prelude or Example towards producing tumultuous Petitions, much less can we see, why it ought the rather to be rejected, because it came from so great a Body as the City of *London* ; on the contrary, we apprehend, that an universal Grievance, which may be occasioned by any general Act, must be represented to the Legislature by particular Persons or Bodies Corporate, or else it cannot be represented at all ; that the rejecting such Petitions, and not the receiving them, is, we think, the Way to occasion Disorders and Tumults ; and that the more considerable the Body is, the more Regard should be had to any Application they make, especially for Matters wherein not only the Rights, Privileges and Immunities, but also their Trade, Safety and Prosperity are, as the Petition avers, highly concerned.

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| <i>Bristol,</i> | <i>Aylesford,</i> | <i>North and Grey,</i> |
| <i>Strafford,</i> | <i>Trewor,</i> | <i>St. John de Bletsee,</i> |
| <i>Gower,</i> | <i>Cowper,</i> | <i>Batburst,</i> |
| <i>Fran. Cestriens',</i> | <i>Aberdeen,</i> | <i>Guilford,</i> |
| <i>Bingley,</i> | <i>Litchfield,</i> | <i>Boyle,</i> |
| <i>Fr. Roffen',</i> | <i>Uxbridge,</i> | <i>Coringesby,</i> |

Die Mercurii 13^o Decembris, 1721.

The House being moved to give Leave, That a Bill be brought in for Repeal of so much of the Act passed the last Session for preventing the Plague being brought from Foreign Parts, as gives a Power to remove to a *Lazaret*, or *Pest-House*, any Persons whatsoever infected with the Plague.

Plague, or healthy Persons out of an infected Family, from their Habitations (though distant from any other Dwelling-House) and also so much of the said Act, as gives Power for the drawing Lines or Trenches round any City, Town or Place so infected.

Contents 20 After Debate, the Question was put
Not Cont. 39 thereupon?

And it was resolved in the Negative.

Dissentient:-

1st, Because the Powers specified in the Question seem to us such as can never wisely or usefully be put in Execution; for by the first of them, Persons of what Rank or Condition whatsoever, either actually infected, or being in the same Habitation, tho' in lone Houses where they are well accommodated, and from whence there is no Danger of propagating the Infection, may be forcibly removed into common *Lazarets* or *Pest-Houses*; and it does not appear to us, that such a Power could, at any Time, be reasonably executed; and therefore, we conceive, it should be repealed.

The other Power extends to the drawing of Lines around any City, Town or Place, and consequently around the Cities of *London* and *Wesminster*; the very Apprehension of which, upon the least Rumour of a Plague, would disperse the Rich; and by that Means (as well as by hindring the free Access of Provisions) starve the Poor, ruin Trade, and destroy all the Remains of publick and private Credit.

2^{dly}, Because such Powers as these are utterly unknown to our Constitution, and repugnant, we conceive, to the Lenity of our mild and free Government, a tender Regard to which was shewn by the Act of *Jacob I.* which took Care only to confine infected Persons within their own Houses, and to support them under their Confinement, and lodged the Execution of such Powers solely in the Civil Magistrate; whereas the Powers by us excepted against, as they are of a more extraordinary Kind, so they will probably (and some of them must necessarily) be executed by military Force; and the violent and inhuman Methods which, on these Occasions, may, as we conceive, be practised, will, we fear, rather draw down the Infliction of a new Judgment from Heaven.

Heaven, than contribute any Ways to remove that which shall then have befallen us.

3dly, Because, we take it, these Methods were copied from *France*, a Kingdom whose Pattern, in such Cases, *Great-Britain* should not follow, the Government there being conducted by arbitrary Power, and supported by standing Armies; and to such a Country such Methods do, in our Opinion, seem most suitable; and yet, even in that Kingdom, the Powers thus exercised of late have been as unsuccessful as they were unprecedented; so that no neighbouring State hath any Encouragement from thence to follow so fatal an Example. In the first Plague, with which we were visited *Anno Dom.* 1665, though none of these Methods were made use of, much less authorized by Parliament, yet the Infection, however great, was kept from spreading itself into the remoter Parts of the Kingdom; nor did the City of *London*, where it first appeared and chiefly raged, suffer so long or so much, in Proportion to the Number of its Inhabitants, as other Cities and Towns in *France* have suffered, where these cruel Experiments have been tried.

4thly, Because had such Part of the Act as, we think, should be repealed, been accordingly repealed, there would still have remained in it a general Clause, which gives the Crown all Powers necessary to prevent the spreading of Infection, and consequently these very Powers, among the rest, if they shall be found necessary; and therefore there is no Need, we conceive, to have them expressly granted in the same Act of Parliament, which seems not only to warrant, but in a particular Manner to prescribe and direct the Use of them.

5thly, Because the great Argument urged for continuing these Powers specified in the Question, That they would probably never be put in Execution in the Cases objected to, seems to us a clear Reason why they should not be continued; for we cannot imagine why they should stand enacted, unless they are intended to be executed, or of what Use it will be to the Publick to keep the Minds of the People perpetually alarmed with those Apprehensions, under which they now labour, as appears by the Petition from the City of *London* lately rejected.

jected: It may be an Instance of our great Confidence in his Majesty's Wisdom and Goodness, when we trust him with such Powers, unknown to the Constitution; but, we think, it ill becomes us to repose such Trust, when it tends, in our Opinion, rather to render him terrible than amiable to his Subjects, and when the only Advantage he can, as we conceive, draw from the Trust reposed in him is, no to make use of it.

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| <i>W. Eber,</i> | <i>Strafford,</i> | <i>Aberdeen,</i> |
| <i>North and Grey,</i> | <i>Boyle,</i> | <i>Cowper,</i> |
| <i>Weston,</i> | <i>Fr. Cestriens,</i> | <i>Bingley,</i> |
| <i>Fra. Roffen,</i> | <i>Bristol,</i> | <i>Guilford,</i> |
| <i>Coningsby,</i> | <i>Trevor,</i> | <i>Foley,</i> |
| <i>St. John de Bletsee,</i> | <i>Uxbridge,</i> | <i>Batburst,</i> |
| <i>Gower,</i> | <i>Aylesford,</i> | |

Die Martis 19^o Decembris, 1721.

The House (according to Order) proceeded to take into further Consideration his Majesty's most gracious Speech from the Throne.

After Debate, the Question was put, that
 Contents 24 an humble Address be presented to his
 Not Cont. 67 Majesty, humbly to desire that his
 Majesty would be graciously pleas'd to
 give Orders to the proper Officers, that the Instructions
 given to Sir *George Byng*, now Lord Viscount *Torrington*, in Relation to the Action against the *Spanish* Fleet
 in the *Mediterranean*, may be laid before this House?

It was resolved in the Negative.

Dissentient

1st, Because not finding any Instance, on search of the Journals, we believe there is none, wherein a Motion for Admirals Instructions to be laid before the House has been denied; but, on the contrary, there are many Precedents of Instructions of a like Nature, and in stronger Cases, as we conceive, addressed for by the House, and several, in Point, for Instructions given to Admirals, particularly to Sir *George Rooke* and Sir *Claude-Alex Shovel*; nor does it seem, to us, at all material, whether the Conduct of such Admirals had or had not been blamed before such Instructions were asked for, since the Sight of Instructions may be previously and ab-

solutely

solutely necessary to inform the House, whether their Conduct be blameable or not.

2dly, Because we think it highly reasonable, that those Instructions should be laid before this House, upon which the Action of the *British* against the *Spanish* Fleet in the *Mediterranean* was founded, without any previous Declaration of War, and even whilst a *British* Minister, a Secretary of State, was amicably treating at *Madrid*, which Court might justly conclude itself secure from any hostile Attack during the Continuance of such Negotiations.

3dly, Because till we have a Sight of those Instructions, and are able to judge of the Reasons on which they are founded, the War with *Spain*, in which that Action of our Fleet involved us, does not appear to us so justifiable as we could wish, and yet it was plainly prejudicial to the Nation in sundry Respects; for it occasioned an entire Interruption of our most valuable Commerce with *Spain*, at a Time when *Great-Britain* needed all the Advantages of Peace to extricate itself from that heavy national Debt it lay under; and as it deprived us of the Friendship of *Spain* (not easily to be retrieved) so it gave our Rivals in Trade an Opportunity to insinuate themselves into their Affections; and, we conceive, that to that War alone is owing the strict Union there is at present between the Crowns of *France* and *Spain*, which it was the Interest of *Great-Britain* to have kept always divided; an Union which in its Consequences may prove fatal to these Kingdoms.

Nor does it appear that *Great-Britain* has had any Fruits from this War, beyond its being restored to the same Trade we had with *Spain* before we began it.

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| <i>W. Ebor</i> , | <i>Strafford</i> , | <i>North and Grey</i> , |
| <i>Aberdeen</i> , | <i>Bristol</i> , | <i>Batburst</i> . |
| <i>Aylesford</i> , | <i>Foley</i> , | <i>Fran. Cestriens</i> , |
| <i>Compton</i> , | <i>Trevor</i> , | <i>Cowper</i> , |
| <i>Guilford</i> , | <i>Boyle</i> , | <i>Uxbridge</i> , |
| <i>Scarsdale</i> , | <i>Weston</i> , | <i>Gower</i> . |
| <i>St. John de Bletsoe</i> , | | |

Die Jovis 21^o Decembris, 1721.

Hodie 3^a vice lecta est Billa, intituled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters. The

The Question was put, whether this Bill with the Amendment shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because we have heard no Arguments to convince us, that there is any Necessity for a greater Number of Troops being kept on Foot at this Time, than there was after the Peace of *Ryswick* or the Peace of *Utrecht*; for as to the Argument urged from the present Disaffection of the People, we are fully persuaded, that the keeping up so great an Army is much more likely to increase than lessen such Disaffection.

2^{dly}, Because this Precedent is likely to be followed in all subsequent Times, there being no Probability that a Conjunction can happen, when there will be less apparent Reason for keeping up a great Number of Forces, than at this Time of a general Tranquillity.

3^{dly}, Because, we conceive, there are several Clauses in this Bill, which tend to overthrow the Civil Power in this Kingdom, and turn it into a Military Government; and we apprehend it to be our Duty to take care, that so dangerous a Precedent may not be made for any future Time without an evident Necessity; and it is plain there is no such Necessity for erecting this Military-Power within this Kingdom in time of Peace, because the Army was well governed without it in the two former Reigns.

4^{thly}. That allowing such a Number of Troops were necessary, yet there is no Reason can be alledged, as we apprehend, that they should be constituted in this expensive Manner, which raises the Charge upon the Nation to about Double what it was, in time of Peace, in the two former Reigns; and we must, with great Concern, assert, that the Publick is much less able to bear such an Excess at the present, than at any former Time.

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| <i>W. Ebor</i> , | <i>Aberdeen</i> , | <i>North and Grey</i> , |
| <i>Bristol</i> , | <i>Guildford</i> , | <i>Foley</i> , |
| <i>Strafford</i> , | <i>Scarsdale</i> , | <i>Boyle</i> , |
| <i>Bathurst</i> , | <i>Tadcaster</i> , | <i>Trevor</i> , |
| <i>Uxbridge</i> , | <i>F. Roffen</i> , | <i>Fran. Cefiriens</i> '. |

Die Sabbati 13^o Januarii, 1721.

The Order of the Day for the House to be in a Committee

mittee again to take into further Consideration the Causes of contracting so large a Navy-Debt being read,

The House was adjourned during Pleasure, and put into the said Committee.

And after some Time spent therein, the House was resumed.

Then a Motion was made, that the not paying off his Majesty's Ships when they came Home from their several Voyages, according to the antient Usage of the Navy, but continuing them in Sea-Pay during the Winter, till they went out again, has been one great Cause of contracting so large a Navy-Debt.

And a Question being stated thereupon,

After Debate, the previous Question was put, whether the said Question shall be now put?

It was resolved in the Negative.

Dissentient

1st, Because, we conceive, the main Question ought to have been put, since the Practice complained of in it having been from the Year 1690 very frequently represented against, to the Admiralty and the Treasury, by the Commissioners of the Navy (the proper Officers to give Advice in such Matters) and who then were Men of great Experience, Ability and Probity; for being contrary to the antient Usage of the Navy, giving great Disgust to the Seamen, and causing an unnecessary Expence of the Publick-Money, we thought it highly reasonable to endeavour that a Stop should be put to this Method, which was attended with so many fatal Consequences; and we cannot but think, the putting and voting the main Question in the Affirmative would have greatly conduced to that End.

2^{dly}, Because it did not appear necessary at a Time when so few Men were either granted or demanded, for the Service of any one Year, that the Seamen should be treated with so much Severity, as not to be paid off according to the antient Usage of the Navy, but kept in floating Prisons, as the said Commissioners of the Navy very well express it, especially since we find, that during the late Wars, when forty thousand Men a Year were granted, this was truly thought, by the said Commissioners of the Navy, a Way rather to provoke the Sea-
men

men to desert, than encourage them to come into or continue in the Service, and to be the principal, if not the only Reason, why it is become so difficult to get them again when wanted.

3^{dly}, We thought at this Juncture, when his Majesty has so lately, in a most gracious Speech from the Throne, signified his having so happily established Peace throughout Europe, it would be proper (if ever) to use our best Endeavours that the Seamen might partake of the Benefit of our mild and free Government, and not be liable to greater Hardships than any of their Fellow Subjects, as we think they will be, if this Practice be suffered to continue.

4^{thly}, Because such Methods ought to be used as will most contribute to procure the Affections of the Seamen to the Service, which, we think, the antient Usage of the Navy will in this Case best effect; by which they will have the Satisfaction to spend their Money within the Kingdom, for the Benefit and Support of their Families, as formerly, when the Ships were paid off at their Return home from their several Voyages, and will, we hope, prevent their absconding from and deserting the Service, and engage them chearfully to enter into it whenever there shall be Occasion; whereas according to the late Practice, by the Opinion of the said Commissioners of the Navy, the Difficulty of getting them in the Spring chiefly rises from keeping them all the Winter, and yet the Difficulty of getting them again is assigned as the only Reason for keeping them in Pay during the Winter, although it amounts to an intolerable Charge upon the Kingdom, it appearing by one of the Papers now upon the Table, that keeping them in Pay all the Winter comes to near five times as much as raising them again in the Spring.

5^{thly}, We cannot but think it a very unusual Way of arguing in a House of Parliament, that a Question ought not to be put, because it is generally admitted to be true, though at the same time there may be too much Reason to believe, that the Practice complained of will not be altered without the Interposition of Parliament.

6^{thly}, We cannot conceive the Treaty with Sweden could

could make it necessary, as was alledged, to keep the Men in Pay all the Winter, since it appears by the Papers upon the Table, that very little or no Time would have been lost, if the old Method of the Navy of raising them in the Spring had been followed, by which much Money would have been saved to the Publick, especially since their so early Arrival there did neither prevent landing the *Cæsar's* Troops upon *Sweden*, when and where they pleased, nor by any Action at Sea contribute to weaken his naval Strength.

Lastly, We take it to be very clear, that if any Necessity or sufficient Reason was foreseen at any time for the dispensing with this Rule of the Navy, it ought not to have been done without his Majesty's Consent in Council, it being, as we conceive, a fundamental Maxim in the Government of the Navy, and a most essential Part of his Majesty's Prerogative, that no Rule or Establishment in the Navy, whether written or unwritten, and customary, ought to be, or can regularly be abrogated, altered, or dispensed with, but by his Majesty's Consent in Council, especially in so weighty a Point as spending the publick Treasure so much faster than it need have been in the Proportion abovementioned; and therefore we thought it expedient that a main Question should have been put and voted in the Affirmative, that this great and useful Prerogative of the Crown might, by censuring what we take to be a Breach thereof (tho' with the Temper recommended from the Throne) have been the better preserved for the future.

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| <i>W. Ebor,</i> | <i>North and Grey,</i> | <i>Guilford,</i> |
| <i>Strafford,</i> | <i>Cowper,</i> | <i>Bathurst,</i> |
| <i>Masbam,</i> | <i>Trevor,</i> | <i>Gower,</i> |
| <i>Uxbridge,</i> | <i>Bristol,</i> | <i>Aberdeen.</i> |
| <i>Compton,</i> | | |

Die Mercurii 17^o Januarii, 1721.

A Petition of the Clergy of *London* was presented and read, against the Bill, entitled, *An Act for granting the People called Quakers such Forms of Affirmation or Declaration as may remove the Difficulties which many of them lie under.*

And a Motion being made, that the said Petition be rejected,

Contents 60
Not Cont. 24

After Debate, the Question was put, whether the said Petition shall be rejected ?
It was resolved in the Affirmative.

Dissentient

1st, Because the Right of petitioning in a legal Manner to legal Purposes does, we apprehend, appertain by Law and Usage to the free People of this Realm, and is as essential to the Subject acting, within his due Bounds, as the Liberty of Debate is to the Constitution of Parliament ; and this Right, as it extends to the Petitioning even for the Repeal of Acts now in Force, by which the People think themselves aggrieved, so it justifies them yet more in presenting their humble Sense of any new Law, while it is under the Consideration of Parliament ; nor are the Clergy, we presume, less priviledged in Relation to the Exercise of this Right, than any other of his Majesty's Subjects : On the contrary, we believe them as worthy of enjoying it, and as capable of exerting it to wise and good Ends, as any Rank of private Men in the Kingdom.

2^{dly}, Because the Petition so rejected is, in our Opinion, proper and inoffensive, both as to the Matter and Manner of it, since it partly relates to the particular Rights of the Clergy in Point of Tithes, and partly expresses their Fears, as we conceive, not altogether groundless, lest the Sect of *Quakers*, already too numerous, should by this new Indulgence be greatly multiplied, and lest the Honour of Religion should any Ways suffer, and the Foundations of Government be shaken by what is intended, both which it is the particular Duty of their Function to uphold and secure ; we are not therefore apprehensive, that it misbecame their Characters to interpolate in any of these important Points, and the Way in which they have done it must seem to us free from Exception, till some Passage in their Petition is pitched upon as obnoxious and censured by the House, which as yet hath not been done.

3^{dly}, Because the Petition suggests a particular Grievance, under which the Clergy will suffer, by this Act, more than any other Order of Men, which, as it had never

ver been observed in the Debates on the Bill, so was allowed to deserve the Consideration of the House; and therefore had there been any other Part of their Petition less unexceptionable (as we apprehend there is not) yet we do not think it was reasonable to lay aside the Whole on that Account, and reject what was acknowledged fit to be considered, for the Sake of what was thought improper to be offered.

4^{thly}, Because the Clergy of *London* are not, in general, so liberally provided for, but that they have Reason to be watchful in Relation to any Step that may unwarily be taken towards diminishing their Maintenance, which we look upon as not duly proportioned to their Labours in populous Parishes, and to the various Employments given them by *Infidels* and *Hereticks*, *Papists*, and divers Sects of Men dissenting from the Church established by Law, with which this Metropolis is known to abound; and as their Situation gives them near Opportunities of observing and knowing what may be stirred in Parliament, to the Prejudice of their Order, so we cannot but think, that it becomes them to make use of that Advantage in Behalf of their distant Brethren, as often as Need shall require, especially at a Time when the Representatives of the Clergy are not attending in Convocation, and in a Readiness to exert their known Right of applying to the Legislature on all such Occasions.

5^{thly}, Because the *London* Clergy, from whence the Petition came, are, in our Opinion, and have been always esteemed of great Consideration, with Respect to their extensive Influence, and their Ability to be serviceable to the State in important Conjunctures; from this Body of Men have proceeded many of the most eminent Lights of the Church and Ornaments of the Bishops Bench, especially since the Revolution; and, in the Reign preceding it, their never to be forgotten Labours put a Stop to the Torrent of *Popery*, then ready to overflow us; on which, and many other Accounts, we cannot but wish that the Applications at any Time made to this House by the City-Clergy might be received with Regard and Tenderness, and a more than ordinary Indulgence allowed them at a Time when so great Favours are about to be bestowed.

ed on the professed Oppugners of their Function and Maintenance.

6tly, Because, by Experience we find, that the treating in this Manner a Petition from any great and considerable Body of Men is not the best Way to allay the Jealousies and extinguish the Uneasiness that occasioned it, a very contrary Effect having followed (according to the best of our Observation, from the rejecting a Petition lately offered by the City of *London*; and the oftner such Instances are repeated, the more we fear the Disaffection of the People will increase, who, thinking themselves under Hardships, from which they desire to be relieved, may look upon it as a new and yet greater Hardship not to be heard; and though the modest and dutiful Deemeanor of the Clergy should no Ways contribute to these Consequences, yet we know not how far this may be the Case with Respect to their Flocks, to whom their Persons and Characters are dear, and who may therefore be induced, by the Reverence they bear to their Pastors, to express as much Concern on their Account as they would on their own: For which Reason it was our earnest Desire, that this second, and, in our Opinion, dangerous Experiment might not have been made.

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| <i>W. Ebor',</i> | <i>Strafford,</i> | <i>Guildford,</i> |
| <i>Wexon,</i> | <i>Foley,</i> | <i>Cowper,</i> |
| <i>Uxbridge,</i> | <i>Aberdeen,</i> | <i>North and Grey,</i> |
| <i>Scarsdale,</i> | <i>Gower,</i> | <i>Bathurst,</i> |
| <i>Compton,</i> | <i>Trevor,</i> | <i>Montjoy,</i> |
| <i>Bristol,</i> | <i>Bingley,</i> | <i>Fran. Roffen'.</i> |
| <i>Cuningesby,</i> | <i>St. John de Bletsoe</i> | |

N. B. This Protestation was expunged by Order of the 5th of March, 1721.

Die Veneris 19^o Januarii, 1721.

Hodie 3^a vice lecta est Billa, intituled, An Act for granting the People called *Quakers* such Forms of Affirmation or Declaration as may remove the Difficulties which many of them lie under.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient'

1st, Because the Privileges allowed by this Bill to the *Quakers*

Quakers are without Example, and no Ways proportioned to the Steps formerly taken towards a gradual Indulgence of them; for whereas they have been hitherto under the real Obligation of an Oath, though dispensed with as to some Formalities, with Respect to the Manner of wording and taking it, they are now altogether released both from the Form and Substance of an Oath, and admitted to profess Fidelity and give Testimony upon their simple Affirmation; nor are these great Privileges indulged to them, as the less were; from time to time, and by Degrees, but are at once made perpetual.

2^{dly}, Because we look upon the *Quakers*, who reject the two Sacraments of *Christ*, and are, as far as they so do, unworthy of the Name of Christians, to be on that Account unworthy also of receiving such distinguishing Marks of Favour.

3^{dly}, Because the *Quakers*, as they renounce the Institutions of *Christ*, so have not given even the Evidence by Law required of their Belief of his Divinity, it no Ways appearing to us (nor do we believe it can be made appear) that ever since they were first indulged, 1 *W. & M.* one *Quaker* in an hundred hath subscribed the Profession of Christian Belief directed by that Act; nor could we, upon a Motion made in the House, prevail that they should even now be obliged, by such previous Subscription, to intitle themselves to the new and extraordinary Favours designed them; the Consequence of which must, in our Opinion, be, that they will encourage themselves yet farther in their Aversion to subscribe that Profession of Christian Belief, which they seem more to decline than even the taking of an Oath, since great Numbers of them have sworn, though very few have subscribed that Profession; nor are we without Apprehensions, that it may reflect some Dishonour on the Christian Faith, if the Evidence given by such Persons on their bare Word shall, by Law, be judged of equal Credit with the solemn Oath of an acknowledged Christian and sincere Member of the established Communion.

4^{thly}, Because we look upon it as highly unreasonable, that in a Kingdom where the Nobles, the Clergy and *Commons* are obliged to swear Fealty to the Crown, and

even the Sovereign himself takes an Oath at his Coronation, a particular Sect of Men, who refuse to serve the State either as Civil Officers or Soldiers, should be entirely released from that Obligation ; since 'tis natural to expect that Persons thus indulged, as to the Manner and the Measure of performing their Allegiance, should, by Degrees. be induced totally to withdraw it, 'till they become as bad Subjects as Christians.

5^{thly}, Because, tho' such extraordinary Privileges are allowed to the Sect of *Quakers* by this Bill, yet there is no Mark or Test prescribed by it, or by any other Act, by which it may certainly be known who are *Quakers*, and consequently who are or are not intitled to those Privileges ; from whence this Inconvenience may arise, that many not really *Quakers* may yet shelter themselves under the Cover of that Name, on purpose to be released from the Obligation of Oaths ; it not being, we conceive, in the Power of the Magistrate, as this Bill stands, to oblige any Person to take an Oath, who at the Time of tendering it shall profess himself a *Quaker* ; so that the Concessions now made to that Sect may prove a great Inlet to Hypocrisy and Falshood, and will naturally tend towards increasing their Numbers, which we rather wish may be every Day diminished.

6^{thly}, Because we do not apprehend, that the *Quakers*, as a Sect, are really under such Scruples in Point of an Oath, that it is necessary to ease them by such an Act, few of them having for five and twenty Years past, since their solemn Affirmation (equivalent to an Oath) was enacted, ever refused to comply with it ; and should this have now and then happened, yet when the great Body of any Sort of Sectaries are at Ease in their Consciences, the Scruples of a few, we think, ought not to be regarded, especially if continuing the Law now in Force will probably extinguish those Scruples ; and the Repeal of it will certainly give new Life and Strength to them.

7^{thly}, Because the Security of the Subjects Property, which depends upon Testimony, seems to us to be lessened by this Act ; the Reverence of an Oath having been always observed to operate farther towards the Discovery of Truth than any other less solemn Form of Affe-

ration ;

ration ; nor can the *Quakers* be excepted in this Case, whose awful Apprehensions of an Oath appear from their earnest Endeavours to decline it ; and therefore, where the Payment of Tithes, by them held to be sinful, is concerned, they will have strong Inducements to disguise the Truth, in what they simply affirm, rather than wound their Consciences and Credit by contributing towards the Support of such an antichristian Payment : In other Cases of Property, their Interest only will clash with their Veracity ; but the double Motive of Interest and Conscience will influence them with respect to the Clergy, whose Calling and Maintenance they equally condemn.

8thly, Because the Inducement mentioned in the Bill towards granting the *Quakers* those Favours, that they are well affected to the Government (a Position of which we have some doubt) might, we apprehend, be improved into a Reason for granting the like Favours to *Deists*, *Arians*, *Jews*, and even to *Heathens* themselves ; all of which may possibly be, as some of them certainly are, Friends to the Government : However, their Friendship, we presume, would be cultivated at too great an Expence, if, for the Sake of it, any thing should be done by the Legislature which might weaken the Security of all Governments, an Oath ; and by that Means do more Mischief to the State in one Respect, than it brought Advantage in another : And we the rather thus choose to reason, because an Argument was urged in the Debate, and no ways disallowed, That if Heathens themselves were equally of Use to the State, as the *Quakers* are, they ought also, equally by Law, to be indulged ; whereas our firm Persuasion is, that as no Man should be persecuted for his Opinions, so neither should any Man, who is known to avow Principles destructive of Christianity, however useful he may otherwise be to the State, be encouraged by a Law, made purposely in his Favour, to continue in those Principles.

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|----------------------|--------------------|------------------------------|
| <i>W. Ebor</i> , | <i>Strafford</i> , | <i>Aberdeen</i> , |
| <i>Fra. Roffen</i> , | <i>Trevor</i> , | <i>St. John de Bletfoe</i> , |
| <i>Compton</i> , | <i>Gower</i> , | <i>Fran. Costrelens</i> , |
| <i>Montjoy</i> , | <i>Salisbury</i> , | |

Die Jovis 25^o Januarii, 1721.

The Order of the Day for the House to be in a Committee to take into further Consideration the Causes of contracting so large a Navy-Debt, and the Instruction to the said Committee, That they do, in the first Place, consider of the Occasion of that Part of the said Debt which arises from having employ'd more Men in the Sea Service, in any Year, than were provided for by Parliament for such Year, and from the not paying off all the Seamen at Winter, being called for,

Contents 23 After Debate, the Question was put,
Not Cont. 60 that authentick Copies of the several Treaties, Instructions, and Orders, relating to the *British* Squadrons being sent into the *Baltick* for several Years last past, be laid before this House, that the true Occasion of that Part of the Navy-Debt, which the Committee is instructed to consider in the first Place, may the better appear; as also that the Act of Settlement has not been infringed by those several Northern Expeditions?

It was resolved in the Negative.

Dissentient

1st, Because it being now admitted by the House, in the Instruction given to the Committee, that the Navy-Debt was increased by employing more Men in the Sea Service yearly than were provided for by Parliament, and by the not paying them off in the Winter; the Intention of the House in that Instruction must, in our Opinion, manifestly be to direct the Committee to enquire into the true Occasion and Reasonableness of those Services, by which the Navy-Debt was increased; and that End could not, we think, be any ways attained without a Sight of those Treaties, Instructions and Orders, upon which those services were founded, since the considering the Occasion of an extraordinary acknowledged Expence must, we conceive, imply an Inquiry into the true Causes for which such an Expence was made; we did therefore think it necessary to desire Copies of the Treaties, Instructions and Orders relating to the several *Baltick* Expeditions, because without them we could not possibly learn the true Reasons of those Expeditions; and it
seemed

seemed to us incongruous that the House should direct an Inquiry, and not contribute to it, by directing also those Materials to be laid before the Committee, which alone could render such an Inquiry effectual.

2^{dly}, Because the Want of such authentick Papers and Instructions could no ways, we think, be supplied by any verbal Representations that might be made by Lords in the Ministry; as Facts occur'd to their Memory in the Debate; this being no sufficient Foundation for any parliamentary Inquiry, much less for such a one as tends to approve, excuse or blame the Measures of those in Power, since we cannot think it suitable either to the Rules of Reason or the Dignity of this House to proceed to Resolutions relating to the Conduct of Ministers upon Facts stated by the Ministers themselves.

3^{dly}, Because Motions for such Papers and Instruments have been frequently made and complied with, nor hath any such Motion ever (as far as we can learn) till of late been refused; the only Paper included in the general Motion that we thought any ways doubtful, whether we should obtain, was the Lord *Carteret's* Instructions, which was moved for before, in this Session, without Success; however, we had Hopes of prevailing even for a Sight of that Paper, when it became necessary, as we apprehend, to qualify the Committee of the whole House to do the Work appointed by the House.

4^{thly}, Because the great Increase of the Navy-Debt arose from the frequent sending of strong Squadrons to the *Baltick*, and continuing them there at Seasons of the Year when the *British* Fleet has seldom been known to be employed so far from Home, and in so rugged a Climate; and therefore we thought it reasonable to expect the fullest Satisfaction in our Inquiries into the Grounds of Expeditions which had been carried on in so unusual, expensive and hazardous a Manner; which the more extraordinary they were, the more they needed, in every respect, to be cleared and justified, that Mis-apprehensions prevailing without Doors, in relation to those Northern Transactions, might be rectified, and such Precedents might not remain without the Reasons on which they were founded; whereas we are now apprehensive, that any Resolutions on this Head may lose much of their

their Weight and Influence should they be known to have been framed upon the Facts barely asserted by Ministers, without Evidence of any Sort to prove the Truth of those Facts.

5thly, Because one great View we had in our Motion for those Papers, was to satisfy ourselves and others, that the Act of Settlement had been no ways infringed by those Northern Expeditions, a Point of the utmost Consequence to the present Establishment and on which therefore all our Care and Circumspection ought to be employ'd: 'Tis the Birth-right of the Peerage, as to concur in the enacting all Laws, so to enquire into the Observation of them; and the more momentous the Law is, the more it becomes us to consider how far it hath or hath not been violated; and one great Inducement to our Inquiry into the Observation of that Law was the Jealousy entertained (as we conceive) on that Head by many of his Majesty's good Subjects, observing that the War in the North ended at last in a Peace, which stripped *Sweden* of all its best Provinces, and confirmed the Acquisition of them to the several Northern Powers concerned, without any particular Advantage, that we hear of, stipulated in Behalf of *Great-Britain*, besides that of a new Guaranty for the Protestant Succession; A Sight of the said Treaties, Instructions and Orders might perhaps have dispelled these Apprehensions; and therefore we thought it our Duty to move for them, and to express our Concern that such a Motion was over-ruled; for we cannot think the Argument used to discourage us from insisting on that Motion (That it amounted to an Inquiry, whether the King had broke his Coronation-Oath) was consistent with the Freedom of parliamentary Debates, or agreeable to the known Rules of our Constitution, which free the Crown from all Blame, and suppose those only who give pernicious Counsels answerable for the fatal Effects of them.

W. Eber',

Boyle,

Foley,

West n,

Bristol,

St. John de Bletsee,

Scarsdale,

Aberdeen,

Compton,

Cowper,

Fr. Cestriens',

Fra. Roffen',

Strafford,

North and Grey,

Uxbridge,

Aylesford,

Gower,

Bathurst,

Montjoy,

*Montjoy,
Bingley,*

Gailford,

Treuer.

Then the House (according to Order) was adjourned during Pleasure, and put into the said Committee.

And after some Time spent therein,

The House was resumed, and the two following Resolutions were reported, *viz.*

—(That it is the Opinion of this Committee, that the Employing great Numbers of Seamen for several Years last past, more than were provided for by Parliament, and thereby increasing the Debt of the Navy, was occasioned by Services which either were pursuant to the previous Advice, or had the subsequent Approbation of one or both Houses of Parliament, and which were also necessary for the Safety of the Kingdom, and the Tranquility of Europe.)

(That it is the Opinion of this Committee, that the Nature of the said Services necessarily requiring some of his Majesty's Squadrons to be kept out the whole Year, and detaining others Abroad till the Months of *November* or *December*; and it being requisite to fit out the said Squadrons in the Month of *February* or the Beginning of *March*, in order to their Sailing early in the Spring, the paying them off, upon their Return, was inconsistent with the due Performance of those Services, nor could the saving (if any) by such Payment have in any Degree made amends for the ill Consequences which must thereby have arisen from the Disappointment to the Service.)

Which Resolutions were read by the Clerk.

And the first of the said Resolutions being read a second Time,

The Question was put, whether to agree with the Committee in this Resolution?

It was resolved in the Affirmative.

Dissentient

1st, Because this Resolution seems to clash with the Instruction from whence it sprung, which was to consider the Occasion of the Increase of the Navy-Debt that arose from employing more Men in the Sea Service than were provided for by Parliament; whereas from the Resolution it appears only, that the Services occasioned the Debt,

Debt, not what real Occasion or Reason there was for those Services, which yet was the Point we suppose chiefly in view, and most worthy of a parliamentary Inquiry.

2^{dly}, Because those Services are, in this Resolution, supposed to be justified by the previous Advice or subsequent Approbation of one or both Houses of Parliament; whereas it did not any way appear to us that either House of Parliament had previously advised, or subsequently approved such Services, though the Vouchers in that respect were often and earnestly required; nor doth it appear to us, how that Assertion is warranted, either by general Expressions in Votes and Addresses, or by a State of the Navy-Debt communicated every Year to the Parliament; and therefore being still in the dark, as to the Evidence pointed at, we could wish that the Growth of the Navy-Debt had been explained and justified by an Inquiry into the Ends and Reasons for which it was contracted; but this Way not being taken, nor being possible to be taken till the Treaties, Instructions and Orders requisite to this Purpose are produced, we know not in what Sense either those Sea Services, or that great Navy-Debt they caused, may be said to have been approved by this or the other House of Parliament.

3^{dly}, But had we been duly informed of the true Motives upon which those Services were undertaken, and thereby enabled to judge of their Reasonableness (as, we think, we in no Degree were) yet still we must be of Opinion, that those Considerations, how important soever, would not have justified the exceeding the Number of Men asked of and allowed by Parliament, which nothing but absolute and unforeseen Necessity can ever excuse; whereas the Occasions of these extraordinary Expences were foreseen, and the Fleets were sent out for many Years successively, (the Parliament sitting) without any previous Demands made of such Supplies as were proportioned to the Expence intended; and we are further of Opinion, that whenever such a Debt is unavoidably incurr'd, it should be especially stated to the Parliament, together with the Necessity that occasioned it, at their next assembling, that the Excuse may be then either allowed or censured, and the Exceedings provided
for

for in Time, instead of being suffered to run on for many Years together, till an insupportable Debt is contracted, without any other Notice taken of the Reason of its Growth, than the laying annually a general State of the Debt on the Table of *the House of Commons*. This we conceive to have been the Case ; and, if it be, do not err, we think, in affirming, that had the Services appeared to have been necessary, yet this Manner of increasing the Debt would not have been warranted:

4thly, Neither can we apprehend, how the Safety of the Kingdom depended upon those extraordinary Services, some of which were performed in the *Mediterranean*, others in the *Baltick*, against Powers not at Enmity with *Great-Britain*. whose Friendship (it seems to us) we should rather have cultivated; and whose Resentments we had, and still have (we fear) Reason to apprehend: We cannot but think it the true Interest of *Great-Britain* to intermeddle as little as is possible in the Quarrels of *Europe*; and then, by our good Offices chiefly, without declaring any Resolution to support our Mediation by Force, or making ourselves either Principals or Parties in Wars that do not immediately concern us. We look upon our Navy (the natural Security of our Island) as too much hazarded, and some chief Branches of our Trade as highly endanger'd, by the Consequences of those remote Expeditions, nor are we yet satisfied, that the Peace by us mediated and concluded in the North hath not made the Provision of Naval Stores for our Fleet more precarious than formerly, tho' on that single Article the Safety of the Kingdom may possibly depend; nor can we judge the present Tranquillity likely to last, since, after all our Expence, the late Northern Peace hath reduced *Sweden* so low, and left the *Czar* in the Possession of such Provinces as may render him very formidable; and what Matters may still remain unadjusted in Treaties, whereby the Tranquillity may soon be disturbed, we cannot determine, since we have not been indulged in our Desire of inspecting those Treaties.

| | | |
|------------|-------------------|--------------|
| W. Ebor, | Strafford, | Bristol; |
| Aylesford; | North and Grey, | Weston, |
| Felby, | Fr. Roffen, | Uxbridge, |
| Scarsdale, | Gower, | Edwiper, |
| Trevor, | Fran. C. Striens, | Guilford, A- |

*Aberdeen,**Boyle,**Compton,**St. John de Bletsee, Bathurst,**Bingley.*

Then the other Resolution being likewise read a second Time,

The Question was put, whether to agree with the Committee in the said Resolution?

It was resolved in the Affirmative.

Dissentient

1st, Because that Part of the Question which concerns such of his Majesty's Ships as are said, but not proved, to have been necessarily kept out the whole Year has not the least Relation, as we conceive, to any thing that has been yet objected to, which was, the not paying Ships that came home before the Winter, and ought by the ancient Usage of the Navy to have been paid off; and therefore we cannot but think was very improperly made Part of the Question.

2^{dly}, Because it being admitted in the Question, that the ancient Usage of the Navy was, that all Ships, when they returned home from their several Voyages, should not be kept in Pay during the Winter (as was the Case of the late *Baltick* Squadrons for some Years past) and it not having been made appear, as we think, in a parliamentary Way, that by any Treaty with *Sweden* it was necessary to send Ships sooner in any Year than might have been consistent with the said ancient Usage; we are of Opinion, that the Resolution will encourage the Practice complained of, and will greatly contribute to make Fleets (so much to the Honour and Security of this Kingdom) too chargeable to be supported.

3^{dly}, Because we cannot but be surpris'd, there should be the least Doubt (as in the Question) whether any Money might have been saved by paying off the Men, when it appears by a Paper upon the Table, that several Ships Companies, amounting to many thousands of Men, have been kept in Pay during the Winter; which Expence, we cannot but think, ought to have been avoided, it appearing from other Papers and Representations upon the Table, that by paying the Men off, more than five Parts in six of the whole Charge of those Men during the Winter had been saved to the Publick.

4^{thly}, Because a Resolution of this House, that seems to

to countenance a Practice of this Sort (at a Time when every way of getting Money at the Expence of the Publick is not found to be less in Peoples Thoughts than formerly) may probably encourage those who shall have Opportunity in future Times too readily to contribute towards the Increase of Navy-Debts, though they are attended with so many ill Consequences, that his Majesty, in a most gracious Speech from the Throne, has very lately been pleased to say, they do not only affect all publick Credit, but greatly increase the Charge and Expence of the Current Service, and are of all others the most heavy and burthensome.

| | | |
|-------------------------|-------------------|-----------------------------|
| <i>W. Ebor,</i> | <i>Strafford,</i> | <i>Guilford,</i> |
| <i>Cowper,</i> | <i>Boyle,</i> | <i>Aberdeen,</i> |
| <i>Scarsdale,</i> | <i>Gower,</i> | <i>St. John de Bletsoe,</i> |
| <i>Fran. Cestriens,</i> | <i>Aylesford,</i> | <i>Compton,</i> |
| <i>F. Roffen,</i> | <i>Uxbridge,</i> | <i>Weslon,</i> |
| <i>North and Grey,</i> | <i>Bristol,</i> | <i>Foley.</i> |
| <i>Trevor,</i> | <i>Bathurst,</i> | |

Die Jovis 1^o Februarii, 1721.

The House having been in a Committee to take into further Consideration the Causes of contracting so large a Navy-Debt,

And being resumed, and *Monday* Fortnight appointed to take that Matter into further Consideration.

A Motion was made, that the Victualling his Majesty's Ships by any other than the Victualiers appointed for that Service, or their Agents, is contrary to the Course of the Navy, and by taking away the proper Checks, is one Cause of contracting so large a Navy-Debt.

And the Question being put thereupon ?

It was resolved in the Negative.

Dissentient

1st, Because it being unquestionably the ancient Course of the Navy to victual all his Majesty's Ships by the Commissioners of the Victualling or their Agents, unless in Case of Necessity ; and it appearing to us, by a Paper returned before this House from the Victualling-Office, that many Ships and Squadrons of Ships have of late Years been victualled by the Commanders, very few of which were so victualled by any Order, and amongst those many Instances a few only were excused, because there were

were no Agents for the Victualling-Office, nor any Stores in the Places where the Ships then were; we think it reasonable to conclude that all the several Victuallings in the said Paper contained, being much the greater Number, which were neither excused therein nor said to be ordered, were so provided without any Order or Excuse whatsoever; and consequently were a needless Breach of the said good Course of the Navy, and by taking away the proper Check made to save the Publick-Money must, in our Opinion, necessarily have been one of the Occasions of the Increase of the Navy-Debt.

2^{dly}. We cannot but observe, that if the said Excuse had (in the Paper abovementioned) been applied to all the several Instances there of Victualling, in a Manner contrary to the Course of the Navy, yet it had been insufficient, since it is not alledged that Agents for the Victualling and Stores might not have been timely had in the Places where the Ships were victualled, if due Notice had been given to the Commissioners of the Victualling, and proper Precautions and Endeavours had been used to that End.

3^{dly}. We cannot but think, that carrying this Question in the Negative will undoubtedly encourage this Breach of the Course of the Navy, as it is acknowledged to be, and in consequence put it into the Power of every Admiral or Commander in Chief of any Squadron, and every Commander of a particular Ship, not only to furnish such Provisions, both in Quantity and Quality, as they shall think fit, but by letting the Men go on Shore, when in Port, on Pretence of supplying Provisions, leave a Charge on the Publick for want of the proper Check, though to the Detriment of the Sea Service.

4^{thly}. Because by this Leave given to the Commanders on the Head of Victualling, they have it in their Power (thro' the Want of the said true and ancient Check) to bring a very great Charge upon the Head of Wages, which must undoubtedly, as we apprehend, occasion a great Waste of the publick Treasure, and consequently an Increase of the Navy-Debt.

5^{thly}. Because, we think, that to suppose the Commander of any Squadron or Ship will not, when it is so entirely in his Power, do what shall be for his Interest;

is to believe him less inclined to his Interest than the Generality of his Fellow Subjects on Shore.

6thly, Because, we believe, if this House will not discourage taking away proper Checks till Proof had (as urged in the Debate) of what had been got by Individuals for Want of those Checks, the Delay and Difficulties attending such an Inquiry will probably hinder any Discouragement being given to such Practices, which are allowed to be contrary to the standing Instructions to the Commissioners of the Victualling and to the Commanders of his Majesty's Ships.

| | | |
|-----------------------------|-------------------|--------------------|
| <i>W. Ebor,</i> | <i>Scarsdale,</i> | <i>Litchfield,</i> |
| <i>North and Grey,</i> | <i>Trevor,</i> | <i>Aylesford,</i> |
| <i>Compton,</i> | <i>Strafford,</i> | <i>Bristol,</i> |
| <i>Boyle,</i> | <i>Craven,</i> | <i>Uxbridge,</i> |
| <i>St. John de Bletsoe,</i> | <i>Guilford,</i> | <i>Crauper.</i> |
| <i>Bathurst,</i> | <i>Bingley,</i> | |

Die Sabbati 3^o Februarii, 1721.

The Lord Chancellor coming late to the House, and not having sent to the Lord Chief Justice King, whom his Majesty, by Letters Patent under the Great Seal, enter'd in the Journal, had authorized to supply the Place of the Lord Chancellor in the House, in his Lordship's Absence, and observing some Uneasiness amongst the Lords, acquainted the House, that he having been summoned to attend his Majesty at *St. James's*, had accordingly waited upon his Majesty there, where he was detained longer than he could foresee, by his Majesty's Command, and that as soon as he was at Liberty he came hither with the utmost Expedition, and asked Pardon for his Stay of the Lords, who had been so long kept in Expectation of him.

A Motion was made to adjourn, and
 Contents 31 the Question being put, whether this
 Not Cont. 49 House shall be now adjourned till
 *Monday Morning next Eleven a-
 Clock?*

It was resolved in the Negative.

Dissentient

1st, Because the House standing adjourned to this Day at Eleven a-Clock, and a great Number of Lords being

being met, and expecting the Coming of their Speaker till near three a-Clock, they seem'd to us generally to resent this Usage, and without any Dissent, that we could perceive, proceeded, according to the standing Order of this House, towards chusing a Speaker; but meeting with some Difficulties as to the Persons nominated, the Lord Chancellor came before any Choice made; and as soon as the House was sat, the Lord Chadcellor alledged, as the Reason of his long Absence, That he had been summoned to attend his Majesty at *St. James's*, where the Business had lasted much longer than was expected; which Excuse, though it might in great Measure free the Lord Chancellor from the Imputation of wilful Neglect of Duty, yet it seem'd to us in no Degree to justify the Indignity which we think was upon the whole Matter done to the House, which is undoubtedly the greatest Council in the Kingdom, to which all other Councils ought to give Way, and not that to any other; and therefore the Business of any other Council ought not to have detained the Speaker of this House after the Hour appointed for its Meeting, and during the Time of the Day the House has usually of late spent in Business; and therefore we thought the least Resentment the House could shew on this Occasion, to prevent its being used so for the future, was to adjourn without entering on any Business; and this the rather, because we foresaw it could not obstruct any publick Affairs, since the Time was so far spent, as that no Business of Consequence could well have been gone through with Effect, though enter'd upon.

zally, As we may venture to say, That the Dignity of this House has not been of late Years increasing, so we are unwilling that any Thing, we conceive to be a gross Neglect of it, should pass without some Note on our Records, that we were sensible of such Neglect, and did not approve it; which we thought would have been in some Measure attained by an immediate Adjournment, nor was any other Method proposed; and since that could not be effected, we enter this Dissent, with our Reasons, that it may appear to Posterity we were zealous to withstand, in the Manner proposed,
the

the further Progress of a Practice so injurious, as we conceive, to the Honour and Authority of this supreme Council.

W. Ebor',
Uxbridge,
Weston,
Boyle,
Cowper,
Somerset,
Scarsdale,
Bingley,
Maynard,

Guilford,
North and Grey,
Litchfield,
Batburst,
Osborne,
Strafford,
Craven,
Montjoy,

Trevor,
Ashburnham,
Bristol,
Foley,
St. John de Bletsee
Fran. Cestriens',
Aberdeen,
Compton.

Die Martis 13^o Februarii, 1721.

Hodie 3^a vice lecta est Billa, entitled, An Act for better securing the Freedom of Elections of Members to serve for the Commons in Parliament.

And a Motion being made, that the said Bill be committed, the same was objected to.

Contents 30 After Debate, the Question was put,
Not Cont 48 whether the said Bill shall be committed?

It was resolved in the Negative.

Contents 48 } Then the Question was put, whe-
Proxies 9 } 57 ther the said Bill shall be rejected?

Not Cont. 30 }
Proxies 8 } 38 It was resolved in the Affirma-
tive.

Dissentient'

Somerset.

1st, Because the Methods of Corruption made use of in Elections, and now grown to an Height beyond the Example of preceding Times, are, of all others, the greatest Blemish to our Constitution, and must, if not remedied, prove fatal to it; and did therefore chiefly deserve, as they can only admit of, a parliamentary Cure.

2^{dly}, Because the Commons, who are the best qualified to judge of the Growth of this Evil, and to point out proper Remedies for it, having sent up a Bill complaining of the one, and desiring our Assistance in the other, it was not, we apprehend, suitable to the Dignity and Wisdom of this House to reject such a Bill, without entering into a free Discussion of the Particulars of which it consisted, and thereby to give an Handle for

for Reflections without Doors, as if we had shewn a less Degree of Zeal against the Corruptions complained of than those from whose Elections it sprung; our Opinion is, that we should rather have taken this favourable Opportunity of joining our Endeavours with theirs, towards the Cure of this Evil, than have made ourselves liable to Objections for refusing to attempt it, even after such an encouraging Step taken by *the House of Commons*.

3dly, Because a Law against Corruption, though always desirable, is yet particularly seasonable and necessary at such a Juncture as this, when new Elections of Members are coming on, and the Parliament for which they shall (by what Methods soever) be chosen may continue for seven Years; and, we think, the Lords are the more concerned to obviate the ill Consequences of such a Choice, because the *Septennial-Act*, which made so remarkable a Change in our Constitution, had its Rise in this House.

4thly, Because we are persuaded, that by the Terror of the Penalties contained in this Bill, which were to have operated soon after it had passed into a Law, a mighty Check would have been given to the Growth of Corruption, though it should not have been absolutely cured; and we are confirmed in this Opinion by what we have heard and believe, that while the Bill was depending in Parliament, and the Fate of it unknown, the impious Practices at which it was levelled were in some Measure suspended; and inculd a further Stop have been put to Corruption and Bribery at the approaching Elections, by passing this Bill, such a Degree of Success might have given the Legislature Hopes of an entire Suppression of it.

5thly, Because supposing this Bill to have been defective in some Respects, and not well adjusted in others to the End designed (a Supposition made, but not admitted by us) yet the true Way of supplying all these Defects, and making all proper Alterations, would have been by committing the Bill, and not by rejecting it: In other Cases, where a Bill of publick Concern is laid aside by the House, they can easily make Amends for that Loss by bringing in a new one, which may more effectually

answer

answer the good Ends proposed ; whereas in this Case there is neither Time sufficient for repeating the Attempt, nor can any Bill of this Kind be ever begun in this House with any reasonable Prospect of Success.

6^{thly}, Because the Intention of many chief Clauses in the Bill is to provide for the more effectual Execution of Laws already made to secure the Freedom of Elections, but hitherto evaded for Want of such Provisions ; and we know not that any Argument hath been or can be used against passing such Parts of this Bill into a Law, but what may with equal or greater Strength be urged for repealing those Laws which yet are held sacred and inviolable.

7^{thly}, Because several Oaths are, by Laws now in Being, required to qualify Electors, and the Oaths enjoined by this Bill are intended only to strengthen the Obligations under which such Electors do, by the known Rules of our Constitution, already lie ; nor are these Oaths attended with any new Hardship or Difficulty, since they relate only to plain Matters of Facts, which are certainly known to the Electors themselves, and which they will be ready to attest with all Solemnity, if they are conscious of their own Innocence ; and if they are not, the legal Punishment of Perjury to which they are subjected is light, in Comparison of the heinous Nature of their Offence, and the mischievous Consequences of it.

8^{thly}, Because that Part of the Bill, which forbids the issuing of publick Money towards influencing Elections, relates to a Method of Corruption, which, of all others, ought the most carefully to be guarded against, and yet was admitted in the Debate to have been frequently practised ; and therefore we cannot but wish, that this Bill had been passed into a Law for the Sake of that Clause, which would have hinder'd what was given for the Security of Subjects Rights and the Safety of the Kingdom from being ever employed to the Destruction of both : An Example, if thus set by Men in high Offices and Stations, cannot fail of spreading its Influence thro' all Ranks and Orders of Men, and procuring Impunity and Applause for such Practices, as all true Lovers of their Country must wish might be universally detested and punished.

9^{thly},

1721. Because we cannot understand how the Objection made to this Bill (That it removes Foundations) can, with any Colour or Reason, be supported; on the contrary, we think, that the whole Design of it is to recover our old Constitution, and resettle it on those firm Foundations from which it has been removed, ever since Bishops has been made an usual Inlet to Parliament, and that dangerous Traffick has been carried on between the Electors and the Elected, which has undermined the various Principles, and may prove fatal to the Liberties of the free People of this Realm.

1721. Second another Argument insisted on in Preamble of the Bill, That it would give *the House of Commons* greater Latitude in deciding disputed Elections, seems to us to be equally groundless; for the Penalties intended to be enacted by this Bill are to take Place only upon Proceedings in the ordinary Courts of Justice, and cannot come under the Cognizance, or be inflicted by the Authority of *the House of Commons*; nor can the Courts be so be checked in their Proceedings on this Head by the Determinations of that House, with which the Methods of punishing Corruption, prescribed by this Bill do not in the least interfere: What therefore was alledged in the Debate can by no Means be allowed, That while the Commons are the sole Judges of Elections, it is vain to think of restraining the Corruption of Elections, since the Methods here prescribed are such, as either operate upon the Conscience, or will, in the common Course of Law, execute themselves; and tho' they may be resisted, yet cannot be frustrated by the Intervention of *the House of Commons*.

1721. Because as the passing this Bill would have been attended with no Inconveniencies to the Publick, so great Much mischief, we apprehend, ensue upon the rejecting it. The Honour of this House may suffer on that Account, and Corruption of all Sorts will, we fear, receive new Life and Encouragement; it being a Matter of daily and certain Observation, that whenever a Bill is brought into Parliament to redress any great Disorders in the State, any Discountenance given to such a Bill will always encourage and increase such Disorders, and make them less capable of a Remedy in succeeding Time,

Times, especially when it shall be affirmed in the Debate, that all Bills of this Kind do more Mischief than Good; which Way of reasoning, should it prevail, will effectually prevent all future Attempts towards curing this great Evil, and preserving the Constitution of Parliaments.

Strafford,

Scarsdale,

Salisbury,

Kent,

Bristol,

Guilford,

Cowper,

Litchfield,

Craven,

Tadcaster,

Maynard,

Montjoy,

Uxbridge,

Boyle,

Aylesford,

Weston,

Compton,

Massham,

Foley,

Trevor,

Fr. Roffen',

Bathurst,

Bingley,

Aberdeen.

Fran. Cestriens', North and Grey,

N. B. All the last Protestation was expunged by Order of the 19th Instant.

Die Lune 19^o Februarii, 1721.

The Order was read for taking into Consideration the Protestation enter'd in the Journal of this House the 13th of this Instant *February*, against rejecting the Bill for securing the Freedom of Elections of Members to serve in Parliament.

And the several Reasons for the said Protestation being read,

After Debate, the Question was put, whether the entire Entry of the Reasons for the said Protestation on the 13th Instant shall be expunged?

Contents 55
Not Cont. 22

It was resolved in the Affirmative.

Dissentient'

1st, Because we are of Opinion, that the Reasons expunged were, both as to the Matter and Form, of them, agreeable to Precedents in former Parliaments, still remaining on the Journals, uncensured by the House.

2^{dly}, Because we were very desirous that the Arguments contained in those Reasons against Bribery and Corruption in Elections, and our Zeal for obtaining such Remedies as were proposed by the Commons themselves, might appear to Posterity as fully and particularly as possible.

3dly, Because as the Practice of expunging Reasons is not antient, so the Method taken upon this Occasion, of expunging many Reasons of various Kinds by one general Question, is (we conceive) unreasonable in itself, and is countenanced but by one Precedent on our Books.

W. Ebor,

Strafford,

Litchfield,

Cowper,

Aberdeen,

Weston,

Fr. Roffen,

Bathurst,

Montjoy,

Uxbridge,

Bingley,

Bristol,

Aylesford,

Fr. Cestriens,

Guilford,

Boyle,

Foley,

Compton,

North and Grey,

Ashburnham,

Maynard.

Eodem Die.

The Order of the Day for the House to be in a Committee again to take into further Consideration the Cause^s of contracting so large a Navy-Debt being read.

After Debate, the Question was put, whether the House shall be now put into a Committee again to take into further Consideration the Causes of contracting so large a Navy-Debt, on this Day three Weeks?

It was resolved in the Affirmative.

Dissentient

1st, Because the putting off the further Consideration of the Causes of the Navy-Debt to so distant a Day, after so long an Adjournment of the same Matter already had, is, as we conceive, not only a Discouragement and Delay, but, as the Session may happen to end, will totally prevent (at least during this Session) that Inquiry, which, as we apprehend, would greatly have tended to the Publick Good, in hindering so large a Navy-Debt from being contracted for the future.

2dly, Altho' the said Inquiry has been a great while depending, yet a very few Days, it appears by the Journal, have been allowed for it, and one of those was employed in reviewing two Questions, which were at first kept from being put, by previous Questions; and therefore, we conceive, a few Days more, ought not to have been denied, for the looking into a Matter of so very great Importance to the Publick.

3dly,

3^{dly}, We apprehend, that all Matters properly brought before either House of Parliament, especially Inquiries into Mismanagements of the Publick Business, ought, if the Time will allow it, to be freely and fully discussed and determined one way or other, and ought not to be kept off from coming to any Determination, by one long Adjournment after another, till the Session be ended.

4^{tly}, Because it was alledged in the Debate, as a Reason against so long an Adjournment, That the Subject-Matter of the Inquiry was not near exhausted; that the Points already considered and determined had no Relation to those proposed to be considered in the further Inquiry; and consequently the Determination of the Former could in no Degree prejudice the Latter, or make the going upon them needless or improper; and to evince this, several of the Particulars designed to have been proceeded upon were specified; as,

That it appeared by Extracts of several Letters on the Table, especially by a Letter from the Navy-Board dated the 13th of *February*, 1701, that the Practice of turning over Companies, or Part of Companies, from one Ship to another, without their Officers, was a Charge to the Crown, by confounding Accounts, and otherwise, as well as disgustful to the Seamen.

That by other Papers before the House, it appeared, that several Squadrons have gone out of late without Muster-Masters, whose Office and Duty is to detect Frauds in Pay and on the Head of Victualling.

That in the Year 1720 two thousand two hundred and one Men were employed in the Yards more than in the Year 1714, and two thousand six hundred and twenty-seven Men more than in the Year 1698, and that the Wages of those Men have of late been greatly increased; both which, for aught appeared to us, are an unaccountable Increase of that Charge to the Publick.

That since the Year 1714 many new Captains and Lieutenants had been made, while great Numbers have been kept in Half-Pay and unemployed, besides those created on Vacancies which happened while the Ships were abroad, and by that Means an unnecessary Charge has been continued on the Publick, and the elder Officers disobl'ged.

That without any Order or Establishment by his Majesty in Council, Pay has been allowed, contrary to the Usage of the Navy, to Flag-Officers at home during the Winter, on Pretence of their making a Journey or two to see their Squadrons equipped.

That without such Order or Establishment of his Majesty in Council, Captains and Commanders of small Numbers of Ships have been paid as Rear-Admirals, on Pretence of having Captains under them, and in but one Instance, that we could observe, a Reason given why they had Captains under them, unless it was to colour their having such Pay.

And we are well assured, that, on further Inquiry, it will appear that new Lieutenants have been made abroad, and old ones, fit to serve, sent home to be put in Half-Pay.

That Flags have been paid in double and treble Capacities.

That Flags and other Officers have been paid as in higher Stations than those they served in.

That two or three Flags of the same Sort have been paid at the same Time.

That Retrospections of Pay have been allowed to Flags and other Officers.

All which being against the antient Oeconomy of the Navy, and wasteful of the Publick Treasure, we think, should have been inquired into without Loss of Time.

These Mismanagements, as we take them to be, and others which might have appeared on further Consideration of this Matter, contributing, as we apprehend, to waste the Publick Treasure, must necessarily have been in a great Degree, on Occasion of contracting so large a Navy-Debt; and therefore we are of Opinion, that on or more further Days, which would probably have fallen within this Session, should have been appointed for taking them into Consideration; which not being done we the rather enter this Protest with our Reasons, what, we hope, may give an Occasion to the resuming the Thoughts of this Matter in another Session of Parliament.

*W. Ebor',
Montjoy,*

*Boyle,
Fran. Cestriani',*

*Compton,
Bathurst,*

| | | |
|--------------------|------------------|------------------------|
| <i>F. Roffen',</i> | <i>Aberdeen,</i> | <i>Cowper,</i> |
| <i>Bingley,</i> | <i>Foley,</i> | <i>Ashburnham,</i> |
| <i>Uxbridge,</i> | <i>Bristol,</i> | <i>Aylesford,</i> |
| <i>Strafford,</i> | <i>Guilford,</i> | <i>North and Grey,</i> |

N.B. Part of the last Protestation, viz. from the Word [specified] at the End of the fourth Reason, was expunged by Order of the third of *March*.

Die Martis 20^o Februarii, 1721.

The Order of the Day for taking into Consideration the State of the National-Debt being read,

Contents 23 A Motion was made, and the Question
Not Cont. 50 was put, that it appears by the State of
the Publick Debt before this House, that
the same (exclusive of the Debt of the Navy) is increased, between the 31st of *December* 1717, and the 31st of *December* 1720, at least the Sum of two Millions three hundred thousand Pounds, notwithstanding that the Sinking-Fund hath produced within that Time one Million nine hundred and ten thousand three hundred eighty-five Pounds fourteen Shillings and six Pence three Farthings?

It was resolved in the Negative.

Dissentient'

Because the Question consisted wholly of Matters of Fact, which were exactly agreeable to a Paper laid before the House by the proper Officer on the Address of this House; and as it is not reasonable to be presumed, that the Officers of the Crown would state the Debt higher than it really was, so we cannot but think, nothing was alledged in the Debate that made it appear the Debt was less than stated in the Question; but on the contrary, had the exact *Quantum* of the Debt been material to have been inquired into on this Occasion, it was evident to us, even from a Memorandum at the Bottom of the same Paper, that the Debt was, in Reality, much higher the 31st of *December*, 1720, than stated in the Question.

| | | |
|------------------|-------------------|--------------------------|
| <i>W. Ebor'</i> | <i>Strafford,</i> | <i>Cowper,</i> |
| <i>Bristol,</i> | <i>Guilford,</i> | <i>North and Grey,</i> |
| <i>Batburst,</i> | <i>Aberdeen,</i> | <i>Fran. Cestriens',</i> |
| <i>Montjoy,</i> | <i>Weston,</i> | <i>Foley,</i> |

*Compton, Litchfield, Uxbridge,
Boyle, Fr. Roffen', Asbburnham.*

N. B. This Protestation was expunged by Order of the Third of *March*.

Eodem Die.

A Motion was made, That the lessening the Publick Debt annually, by all proper Methods, is necessary to the restoring and preserving the Publick Credit.

And a Question being stated thereupon, after Debate, the previous Question was put, whether the said Question shall be now put?

It was resolved in the Negative.

Dissentient

1st, Because as the main Question is undeniably true, and seems to us admitted to be so, by its being prevented to be put by the previous Question, so we think it would have been highly expedient and useful to the Publick to have had it put and voted in the Affirmative, that by the declared Opinion of this House (which must always be of the greatest Authority) those who are more immediately concerned to take Care of the Publick Credit might not rely on vain and deceitful Projects for restoring and preserving the Credit of the Nation, but apply themselves seriously and diligently to bring about the only effectual Means of doing it.

2^{dly}, Altho' so clear and evident a Truth, as is contained in the main Question, cannot when proposed but obtain the Consent of all, especially of such as are qualified to be in great Stations, yet at this Juncture, when the Publick is under such great Necessities from the unexampled Pressure of Debts, and when all other Remedies hitherto attempted have proved ineffectual, if not mischievous, we cannot but conceive it was extremely proper, and must have greatly conduced to the restoring and preserving the Publick Credit, to have quicken'd the Endeavours for that Purpose of all in the Publick Service, by so high an Authority as a Resolution of this House, not only pointing out to them the Way they should take towards that good End, but intimating also, that as far as is possible to be attained, the doing so would be expected from them.

And

And therefore, we conceive, the main Question should have been put and voted (as we think it must have been, had it been put) in the Affirmative.

| | | |
|------------|----------------|-----------------|
| W. Eber, | North and Grey | Bristol, |
| Strafford, | Compton, | Aberdeen, |
| Cowper, | Fr. Raffen, | Guildford, |
| Abburnham, | Boyle, | Litchfield, |
| Weston, | Unbridge, | Fra. Cestriani, |
| Bathurst, | Foley, | |

Die Veneris 2^o Martii, 1721.

Head 3^a vice l^{ta} of Bill, intituled; An Act to prevent the clandestine Running of Goods, and the Danger of Infection thereby; and to prevent Ships breaking their Quarantine, and to subject Copper-Oar of the Production of the *British* Plantations to such Regulations as other enumerated Commodities of the like Production are subject.

Contents 35 The Question was put, whether this Bill
Not Cont. 19 shall pass?
 It was resolved in the Affirmative.

Dissentient

1st, Because we are very sensible of the ill Consequences that attend the pernicious Practice of Running Goods; and therefore with some reasonable, proper and effectual Method (which we do not take this Bill to be) might have been set on Foot to prevent it.

2^{dly}, Because the making the Alteration, by a former Bill, from Ships of fifteen Tun to those of thirty has not proved of any Advantage, as we apprehend, since it has been admitted that the Customs have fallen since; and we find no Ground to hope, that the further raising the Prohibition to Ships of forty Tun, as is done by this Bill, will be effectual; but, we think, there is Reason to fear that it may be a great Prejudice to the Coasting-Trade in particular, since the Owners of such Vessels are thereby subjected to the heavy Penalty of losing their Ships, when possibly they may be entirely innocent themselves, and the Fault may be committed only thro' the Folly or Knavery of the Sailors, which will discourage the sending small Vessels to those who trade

in them, by which a great Part of the Coast-Trade is at present carried on.

3dly, Because the Penalty of Banishment in the Bill seems, in some Cases, to be annexed to a very small Offence : We do not think it too great for any one who shall be taken with Goods of any considerable Value, and with a manifest Intent to defraud his Majesty of his Customs ; but as the Bill is worded, it will, as we conceive, extend to any Gentleman, if armed, returning from his Travels, who has about him knowingly the least Trifle that has not been entered and paid Duty, though he hath not the least Design to defraud the King of his Customs, or thinks he is transgressing any Law whatsoever ; and we do not think fit to depend, that so severe a Law may not, in such hard Cases, be sometimes executed with Rigour.

4thly, Because it was endeavoured, but without Success, at the Committee, to have excepted the Barges of Noblemen and of the Lord-Mayor and Companies of the City of *London*, which cannot be supposed to be used (and the great Barges of State belonging to the City cannot be used) in the Running of Goods ; and therefore, we conceive, the making it necessary for the Nobility, or the Lord Mayor and Companies to apply to the Admiralty for a Licence to use their own Barges on the River *Thames*, or lay aside the Use of them for want of such Licences, which cannot be obtained without giving such a Security as will bind and incumber the real Estates of the Obligers, to be not only a great and unnecessary Indignity, but also an Invasion of Property, especially in the Case of the Barges belonging to the City of *London*, which City has an ancient Right to the Conservation of the River of *Thames*, and as high an Interest in it as possible to be had in any navigable River ; and therefore we think it absurd, as well as injurious to Property, to compel the great Officers and Companies of that City to ask and give Security for a Licence to navigate or pass on that Part of the *Thames* which may not improperly be called their own River.

5thly, It seems to us partial and unjust, that the Prohibition of Barges, and other Vessels described in the Bill,

Bill,

Bill, should extend only to the Counties for that Purpose named in the Bill, and not to other maritime Counties, especially such as are most infamous for Running Goods; where, tho' the Vessels described may not as yet be so much in Use as in the Counties named, yet will undoubtedly be more used in other Counties not named, when they can no longer be kept in the Counties or Places the Bill extends to; and, we conceive, Laws should not make a Distinction where there is no Difference in Reason, on a Dependence that it may be supplied, by a new Law, another Opportunity.

6tly, Because the Time allowed by the Bill (*viz.* to the 25th of this instant *March*) either to dispose of the Barges and other prohibited Vessels, or obtain Licences for the keeping, is much too short, as we conceive, and will prove the Occasion of more Hardships being done than can possibly be foreseen.

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|-----------------------------|------------------------|-------------------|
| <i>Scarsdale,</i> | <i>Aberdeen,</i> | <i>Boyle,</i> |
| <i>Montjoy,</i> | <i>Foley,</i> | <i>Strafford,</i> |
| <i>Bristol,</i> | <i>North and Grey,</i> | <i>Compton,</i> |
| <i>Litchfield,</i> | <i>Guilford,</i> | <i>Bathurst,</i> |
| <i>Weston,</i> | <i>Uxbridge,</i> | <i>Cowper,</i> |
| <i>Fran. Roffen',</i> | <i>Craven,</i> | <i>Masham.</i> |
| <i>St. John de Bletsoe,</i> | | |

Die Sabbati 3^o Martii, 1721.

The House (according to Order) proceeded to take into Consideration the Motion made on *Tuesday* last, for making the Order then made, in Relation to Protestations and Dissents, a standing Order of this House, and that the same be entered on the Roll of standing Orders, instead of the Order of the 5th of *March*, 1641.

And the said Order being read,

After Debate, the Question was put, whether the said Order shall be made a standing Order of this House, and entered on the Roll of standing Orders, instead of the said Order of the 5th of *March*, 1641.

It was resolved in the Affirmative.

Dissentient'

1st, For that the standing Order in Relation to the Time of entering Protestations was made above eighty
M 5 Years

Years since, and was restrictive of an ancient Right ; and yet in all that Time, till now, has never been thought not to have restrained that Right enough ; but on the contrary, whenever longer Time than is allowed by that Order has been asked, as it has been done in innumerable Instances, it was never once denied, as we believe ; which shews, that the constant Opinion of this House has hitherto been, that the Restraint brought upon that ancient Right of the Lords, by that old Order, has been rather too much than too little.

2^{dly}, The abridging this Right of protesting with Reasons yet more, will necessarily cause the Reasons to be penned with less Accuracy, and probably longer than they would have been, had more Time been allowed ; which, tho' it may gratify those who differ in Opinion from the Protesters, yet will hurt the Honour of the House, as we conceive, and the Dignity of the Records thereof ; for we can by no Means allow, that as much Time should not be afforded to word the Lords Reasons, which are to be entered on the Journals, as would be necessary to the Wording of a Pamphlet designed to be printed and published.

3^{dly}, Because, we conceive, that if this further Restraint does not render the Protesting quite impracticable, yet it must prove very incommodious and troublesome to the Lords who would make use of that their undoubted Right ; for if a Debate should take up any long Time, as most Debates of Consequence should do, the intermediate Time allowed is, in our Opinion, not sufficient for Lords who design to protest to meet and bring their several Reasons together, and afterwards express them with that Clearness, and so unexceptionably, as they ought to do ; and besides, get them fairly and correctly entered on the Journal : So that, in our Opinion, they must very often either be excluded from entering and signing their Reasons, or endure a great deal of Hardship and Inconvenience, by denying themselves usual Rest and Refreshments (as is very obvious without further Explanation) and be obliged to come long before their ordinary Duty of attending the Business of the House requires ; so that, we conceive, this new Restraint will either hinder protesting with Reasons, or amount to a kind of

of Punishment on those Lords who shall make use of their ancient and undoubted Right of Protesting.

4thly, There seems to us the less Reason for this Step, because if the Liberty of entering Protestations with Reasons be in any Degree abused, the House can, and does, order them, or such Parts of them, as can be reasonably objected to, to be expunged; and this Observation is yet stronger, for that of late, Precedents have been made of expunging a great Number of Reasons, and of a various Nature, by one general Question; which is a very expeditious Remedy for any Abuse that can happen.

ably, If ever there should be a Time when the utmost Candour and Fairness is less in Use than at present, this new Restriction on the Right of Protesting with Reasons may open a Gap to many Artifices and unfair Practices in Prejudice of that Right; Clerks may come later than usual, pretend other Business, or write slower, or use other Shifts to avoid perfecting the Entry of the Reasons till after the Time allowed, especially if they shall think, tho' falsely, they gratify a Majority of the House by so doing, which will make them at least Hope for Impunity; or if not so disposed, they may be, on the other Hand, induced (and not unreasonably) to write faster and more loosely than will become the Journal of this House, that the Entry may be finish'd within the Time limited. We do not pretend to enumerate all the Ways of making this Alteration of the old Standing Order more inconvenient than appears at first Sight, but only specify these few.

6thly, We do not think the Right of entering Proclamations with Reasons has been of late abused, so as to give Occasion for this new Restriction, tho' it may have been used of late more frequently than formerly: for which, according to our Opinions, there hath been very proper Occasions given: and since we cannot but think the Right of protesting with Reasons a valuable and useful Privilege, we must confess our Fears, lest these Restrictions, tho' not now intended so, should end at length in a total Extinction of that Right.

W. Eber, Strafford, Eng. - Captain
Unlabeled, Barrow, Capt. -
Noyes and Gray, Trever, Bristol, Boye.

Boyle,
Litchfield,
St. John de Bletsee,

Aberdeen,
Fr. Raffen', Foley,
Weston.

Eodem Die.

The Order was read for taking into Consideration the Proteftations enter'd in the Journal the 19th and 20th Days of *February* laft paft.

And the feveral Reasons in the Proteftation enter'd the 19th of *February* laft, againft putting off the further Consideration of the Causes of contracting fo large a Navy-Debt for three Weeks, being read,

It was propos'd, that from the Word [specified] in the tenth Line of the fourth Reason, to the End of the faid Proteftation, be expunged.

And it being moved to adjourn,

The Question was put, whether this Houfe fhall be now adjourned till *Monday* Morning next Eleven o'Clock?

It was refolved in the Negative.

| | |
|--------------|---|
| Contents 18 | Then the Question was put, whether all |
| Not Cont. 45 | that is contained in the faid Protefta- |
| | tion after the Word [specified] in the |
| | tenth Line of the fourth Reason, fhall |
| | be expunged? |

It was refolved in the Affirmative.

Dissentient'

Because when we were giving Reasons againft putting off the further Consideration of the Causes of the Navy-Debt by long Adjournments, probably for the whole Session, as we thought no Reason could be more proper than that the Subject-Matter of that Inquiry was not exhausted, but that very much material Business remain'd to be confider'd on that Head; fo we did, and do yet conceive, that the following that general Affertion, with an Enumeration of the particular Matters which yet did remain to be inquired into, as well fuch as arofe from Papers already before the Houfe, as other, which we were well affur'd would arife in the further Progress of that Business from Papers defign'd to be called for) did make the faid general Argument, which ftands unexpunged, more ftrong, as well as more fair and candid, by
fhewing

owing it was well founded upon Particulars; and altho' the House has not thought fit to permit the said Enumeration of Particulars to stand on the Journal, yet, we perceive, we have attained this Advantage, by having enter'd them, that it cannot be objected to us now, that we generally affirmed more Business of Consequence remained for that Committee to do, without being able to instance or specify what in particular.

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| <i>W. Eber',</i> | <i>Fran. Cestriens',</i> | <i>North and Grey,</i> |
| <i>Uxbridge,</i> | <i>Batburst,</i> | <i>Trewar,</i> |
| <i>Strafford,</i> | <i>Litchfield,</i> | <i>Boyle,</i> |
| <i>Aberdeen,</i> | <i>Foley,</i> | <i>Brisel,</i> |
| <i>Fra. Roffen',</i> | <i>Cowper,</i> | <i>St. John de Bletsee.</i> |

Then the Reason for the Protestation enter'd the 20th February last, on Consideration of the State of the National Debt, being read,

After Debate, the Question was put, whether the entire Reason for the said Protestation shall be expunged?

It was resolved in the Affirmative.

efficient'

Because, we conceive, there is no Instance of expunging the Reasons of a Protest, unless they were thought contain something indecent to the House, or alledged matters of Fact that were false; the first is not presumed in this present Case; and as to the Second, the Matter depending upon Figures, there can be no Dispute, but upon the Method of Calculation; and if the Lords who signed the Protest did choose to follow the Method observed by the Officers of the *Exchequer*, rather than any other, we do not conceive their Reasons, founded on such Authority, deserved to be expunged; neither do we think the same Lords were obliged to make Deductions from the *Exchequer* Account, which was laid before the House, without making the proper Additions at the same Time; for it must be agreed, that if the Debt stated in 1717 was but forty-seven Millions, eight hundred Thousand Pounds, and in the Year 1720 above fifty Millions, the bringing the Annuities into the *South-Sea* Company may occasion an Increase of about two Millions and a Half; and the Army-Debentures, not yet brought to Account, are estimated at about Half a Million

Million more; and the Debt of the Navy is near two Millions; so the Whole appears to be about fifty-five Millions, and the Increase of the national Debt (since it was stated in 1717) might therefore be reckoned about seven Millions; and deducting the Million of *Exchequer-Bills* lent to the *South-Sea* Company, the real Increase of the national Debt, above what it was stated at in the Year 1717, appears to us, at this Time, about six Millions: But as the Reasons were founded on the Account laid before the House, which kept in the Million of *Exchequer-Bills* as a Debt, and excluded all the other Articles, we conceive they ought not to have been expunged, since the Under-reckoning the Debt was not the Objection made against them.

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|----------------------------|------------------------|------------------|
| <i>Fraz. Cæsarians,</i> | <i>North and Grey,</i> | <i>Unbridge,</i> |
| <i>Buchart,</i> | <i>Litchfield,</i> | <i>Weston,</i> |
| <i>Foley,</i> | <i>Boyle,</i> | <i>Aberdeen,</i> |
| <i>Couper,</i> | <i>Gmilford,</i> | <i>Bristol,</i> |
| <i>Straford,</i> | <i>Fr. Raffen,</i> | <i>Trevar,</i> |
| <i>St. John de Bistoe,</i> | | |

Die Lunæ 5^o Martii, 1721.

The Order was read for taking into Consideration the Protestation enter'd in the Journal the 17th of *January* last, on rejecting a Petition of the Clergy in and about *London* against the Bill for granting the *Quakers* such Forms of Affirmation as may remove the Difficulties many of them lie under.

And the several Reasons for the said Protestation being read,

After Debate, the Question was put, whether the entire Entry of the Reasons for the said Protestation on the 17th of *January* last shall be expunged?

It was resolved in the Affirmative.

Dissentient

Because former Reasons enter'd against some late Resolutions for expunging do, as we conceive, equally extend to justify our Dissent to this Resolution; and therefore, to avoid Repetition, we refer to those Reasons, with this further, That we do not find, and believe there is not any Precedent, wherein Reasons for a Protestation

testation have been taken into Consideration by the House so long after they were enter'd, as in the present Case; and the Inconveniencies of doing so are, in our Opinion, very manifest.

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| <i>Strafford,</i> | <i>Fra. Cestriens,</i> | <i>Cowper,</i> |
| <i>Er. Roffen,</i> | <i>Craven,</i> | <i>Batburst,</i> |
| <i>Boyle,</i> | <i>Aberdeen,</i> | <i>Guilford,</i> |
| <i>North and Grey,</i> | <i>Uxbridge,</i> | <i>Litchfield,</i> |
| <i>St. John de Bletsoe,</i> | <i>Montjoy,</i> | <i>Foley,</i> |

Die Jovis 11^o Octobris, 1722.

A Bill to empower his Majesty to secure and detain such Persons as his Majesty shall suspect are conspiring against his Person and Government, was presented, and read twice, and committed and reported with Amendments; one of which being to continue the said Power in Force till the 24th of *October* 1723.

And the Amendment being read a second Time.

The Question was put, whether to agree with the Committee therein?

It was resolved in the Affirmative.

Dissentient

1st, Because the Act commonly call'd the *Habeas Corpus* Act is admitted on all Hands to be the great Bulwark of the Liberty of the Subject; and therefore, altho' in Cases of actual Rebellion and intended Invasion, that Act has been at Times before suspended, yet it was done sparingly and by Degrees; and the utmost Term for which it has hitherto been suspended, at any one Time, has been the Term of six Months; which Consideration puts us under a very melancholy Apprehension, for the very Being or Effect of that excellent Law, since the present Suspension of it, for the Term of a Year or more, will be full as good an Authority, in Point of Precedent, for the suspending it on another Occasion for the Term of two Years, as any former Precedent is now for the present Suspension during one Year and more.

2^dly, The detestable Conspiracy which occasions the present Suspension having been discovered and signified to the City of *London* about five Months since, and divers imprisoned for it a considerable Time past, we cannot but conceive it to be highly unreasonable to sup-

pose.

pose, that the Danger of this Plot, in the Hands of a faithful and diligent Ministry, will continue for a Year and more yet to come, and that in so high a Degree as to require a Suspension of the Liberty of the Subject, for so we take it to be, during all that Time.

3dly, His Majesty, having not visited his Dominions abroad these two last Years, will, very probably, leave the Kingdom the next Spring to that End; in which Case, this great Power of suspecting and imprisoning the Subjects at Will, and detaining them in Prison till the 24th of October 1723, and for as much longer Time as till they can, after that, take the Benefit of the *Habeas Corpus* Act, if they can then do it at all, will be lodged in the Hands of some of our Fellow-Subjects, who, we are not so sure, will be above all Prejudices and Partialities, as we are, that his Majesty will.

4thly, This weakens the Provision made in the Bill for the Lords, and Members of the other House of Parliament, that they shall not be committed or detained, the Parliament sitting, without the Consent of the Houses respectively; since it is very probable the Parliament will not be sitting the greatest Part of the Time for which this Bill, if enacted, will continue a Law: And such is the Weakness of human Nature, that we cannot be assured, but that the Apprehension of what may befall any Member of Parliament, while the Parliament is not sitting, may have some Influence on the Freedom of acting and debating in Parliament.

5thly, The Dictatorial Power was always ended or laid down immediately when the urgent Occasion for it was over, and was never continued much longer, till a little before that great State, from which all others draw so many Maxims of Government, lost its Liberties.

W. Eber',

Aylesford,

Gower,

Osborns,

Fran. Cestriens',

Asbburnham,

Guilford,

Craven,

Cowper,

Scarsdale,

Treor,

Hay,

Masbam,

Batburst,

Strafford,

Anglesey,

Bingley,

Litchfield,

Uxbridge,

Die Veneris 26^o Octobris, 1722.

The House was informed, That his Majesty having just Cause to suspect the Duke of *Norfolk* was engaged in the traiterous Conspiracy carrying on, had caused him to be apprehended, and did desire the Consent of the House, that the said Duke might be committed and detained according to the Act for suspending the *Habeas Corpus* Act.

After Debate, the Question was put, that
 Contents 60 this House does consent to the com-
 Not Cont. 28 mitting and detaining *Thomas* Duke of
Norfolk, on Suspicion of High-Trea-
 son, pursuant to the Act passed in this present Session of
 Parliament, entitled, *An Act to empower his Majesty to*
secure and detain such Persons as his Majesty shall suspect
are conspiring against his Person and Government?

It was resolved in the Affirmative.

Dissentient

1st, Because we apprehend it to be one of the ancient undoubted Rights and Privileges of this House, that no Member of the House be imprisoned or detained, during the sitting of Parliament, upon Suspicion of High-Treason, until the Cause and Grounds of such Suspicion be communicated to the House, and the Consent of the House thereupon had to such Imprisonment or Detainer; which ancient Right and Privilege is recognized and declared in plain, express and full Terms, in the Act passed this Session of Parliament, to which the Message from his Majesty refers.

2^{dly}, Because it appears clear to us, not only from former Precedents, even when no such Law was in being as that above-mentioned, but also from the necessary Instruction of the Proviso therein concerning the Privileges of Parliament, that the House is entitled to have the Matter of the Suspicion communicated to them in such Manner as is consistent with the Dignity of the House, and will enable them to deliberate and found a right Judgment thereupon for or against the Imprisonment or Detainer of the Person concerned: But to tain, that whilst that Law shall be in Force, it shall be it shall be sufficient, in Order to obtain the
 Con-

Consent of the House, to communicate a general Suspicion, that a Member of the House is concerned in a traitorous Conspiracy, without disclosing any Matter or Circumstance to warrant such Suspicion, is, in our Opinion, an unjustifiable Construction of the said Provision, and such as wholly deprives the House of the Liberty of giving their free and impartial Advice to the Throne on this Occasion; and such a Construction being made upon a Law, so plainly intended by the Wisdom of this Parliament to assert the Privileges of both Houses, appears to us to pervert the plain Words and Meaning of it, in such a Manner as renders it wholly destructive of those very Privileges intended to be preserved.

3dly, Because his Majesty having, in effect, required the Judgment and Advice of the House touching the Imprisonment and Detainer of the Duke of Norfolk; we ought not, as we conceive, either in Duty to his Majesty, or in Justice to the Peer concerned, to found our Opinions concerning the same on any Grounds, other than such only as his Majesty hath been pleased to communicate in his Message; and his Majesty, by his Message, having communicated only a general Suspicion, we think we cannot, without the highest Injustice to the Duke, and the most palpable Violation of one of the most valuable Privileges belonging to every Member of this House, give our Consent to his Imprisonment or Detainer, and thereby make ourselves Parties to, and, in some degree, the Authors of such his Imprisonment, until we have a more particular Satisfaction touching the Matters of which he stands suspected; more especially considering the long and unprecedented Duration of the Act above-mentioned, whereby the Benefit not only of the Act commonly called the *Habeas Corpus* Act, but of *Magna Charta* itself, and other valuable Laws of Liberty, are taken from the Subjects of this Realm, and extraordinary Powers are given to the Persons discreetly intrusted over the Liberties of the People for a Twelve-month and upwards.

4thly, Because, we think, it is inconsistent, as well with the Honour and Dignity, as with the Justice of this House, in the Case of the meanest Subjects, to come to Resolutions for depriving them of their Liberty, upon

other than clear and satisfactory Grounds: But as the Members of both Houses of Parliament are, by the Laws and Constitution of this Kingdom, invested with peculiar Rights and Privileges, of which the Privilege before-mentioned is a most essential one, as well for the Support of the Crown itself, as for the Good and Safety of the whole Kingdom; we cannot, as we conceive, without betraying those great Trusts which are reposed in us, as Peers of this Realm, agree to a Resolution which tends, in our Opinion, to subject every Member of this House, even while the Parliament is sitting, to unwarrantable and arbitrary Imprisonments; and we have the greater Reason to be jealous of the Infringement of this Privilege on this Occasion, because it had been very easy, as we think, for those who had the Honour to advise the framing the said Message, to have communicated to this House the Matter of which the Duke of *Norfolk* stands suspected, in such a Manner as might be consistent with the Privileges of this House; and at the same Time avoided any Danger or Inconvenience to the Crown, with regard to the future Prosecution of the said Duke, if any such shall be.

5thly, It is the known Usage and Law of Parliament, that this House will not permit any Peer to be sequester'd from Parliament, on a general Impeachment of the Commons, even for High-Treason, till the Matter of the Charge be specified in Articles exhibited to this House; which explains to us the Nature of the Privilege intended to be secured by the Proviso, and is the highest Instance of the Care of this House to preserve it from being violated on any Pretence whatsoever: But, in our Opinions, it must create the greatest Inconvenience and Repugnancy in the Proceedings of the House, to consent that a Peer of the Realm should be imprisoned or detained (the Parliament sitting) on a Suspicion of High-Treason only, not warranted, for aught appears to us, by any Information given against him upon Oath, or otherwise, and no particular Circumstance of such Suspicion being communicated to the House.

6thly, Because a Resolution so ill grounded as this appears to us may produce very ill Effects, in the present unhappy Conjunction of Affairs, by creating fresh Jealousies

looses in the Minds of his Majesty's Subjects, who cannot fail of entertaining certain Hopes of the Safety of his Majesty's Person and Government against all his Enemies, from the Advice and Assistance of both Houses of Parliament, whilst they continue in the full Enjoyment and free Exercise of their ancient and legal Rights and Privileges ; but on the other Hand, may be alarmed with new Fears for the Honour and Safety of his Majesty and his Government, by a Resolution taken by this House for the Imprisonment of a Peer of the Realm, in such a Manner as, in our Opinions, is highly injurious to his Person, and also to the Privilege of every other Peer of this Realm, and which may prove of fatal Consequence to the Constitution of both Houses of Parliament.

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| <i>W. Eber',</i> | <i>Fran. Cestriens',</i> | <i>Strafford,</i> |
| <i>Bastarff,</i> | <i>Scarsdale,</i> | <i>Foley,</i> |
| <i>Trevar,</i> | <i>Lechmere,</i> | <i>Osborne,</i> |
| <i>Hay,</i> | <i>Hereford,</i> | <i>Bristol,</i> |
| <i>Uxbridge,</i> | <i>Bingley,</i> | <i>Guilford,</i> |
| <i>Oxford,</i> | <i>Compton,</i> | <i>Alburnham.</i> |
| <i>Cowper,</i> | | |

Die Lune 21^o Januarii, 1722.

A Motion was made, That the Judges of the *King's Bench* be ordered to cause the Trial of *Christopher Layer Esq;* to be forthwith printed and published, the same being first perused by the King's Counsel.

And a Question being stated thereupon,

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| Contents 32 | After Debate, the previous Question was put, whether the said Question shall be |
| Not Cont. 53 | now put ? |

It was resolved in the Negative.

Dissentient'

1st, Because it appeared to us, on the Debate of the main Question, that there has been an unnecessary and affected Delay in the Printing and Publishing the said Trial, it being full two Months since *Christopher Layer* was tried ; and Direction having been given for the speedy publishing thereof, so long since as the 27th of *November* last, as appears by an Advertisement, printed by Authority, in the *Gazette* ; and it having been allowed in the Debate, That the Delay was extraordinary,

and

and no Fact having been laid before the House sufficient as we apprehend, to excuse such Delay, we think, that the main Question ought to have been put, as the only Security, in our Opinion, against any further Neglect, and to prevent any Imputation on the Honour of the House for countenancing or conniving at such Delay.

2^{dly}, This House having received no manner of Satisfaction, since his Majesty's most gracious Speech from the Throne, touching the horrid Conspiracy therein communicated, and no Step having been taken, for ought appears to us, either in Parliament, or elsewhere, for obtaining the Justice due by the Laws of the Land to any of the Conspirators (except the said *Laver*) tho' his Majesty was pleased to assure this House, in his Speech from the Throne, that some of the Conspirators were then taken up and secured; we think that the main Question ought to have been put, whereby the Publication of the said Trial might have been quickned, and thereby the Nation have received such Satisfaction concerning the said execrable Conspiracy, as could be collected from the said Proceeding, and this House have been enabled to make such Use thereof as should appear necessary in their Wisdom for the Honour, Interest and Safety of his Majesty and his Kingdoms.

3^{dly}, Because we are apprehensive, that the Delay in publishing the said Trial may have contributed to create Jealousies concerning the said Conspiracy, and may have encouraged ill-affected Persons to foment the same, to the great Prejudice of his Majesty's Government; and as, in our Opinion, the speedy publishing the said Trial, if the same had been done, might have conduced to the Prevention of those Mischiefs, we also conceive, that the further Growth of them might have been checked, if the main Question had been put, and carried in the Affirmative.

4^{thly}, Because we think it of great Consequence to his Majesty's Service, that the Publication of the said Trial should have been made under the strictest Security against any Partiality or other Abuse relating thereto; and therefore, we think, the main Question ought to have been put, whereby the Care and Inspection thereof would have been lodged, by the Authority of this House.

House, in the Hands of the Judges, to whom it properly belongs ; and its falling into any other Hands not so proper, or not so immediately responsible to this House, would have been prevented.

| | | |
|-------------------|--------------------------|--------------------|
| <i>Anglesey,</i> | <i>Osborne,</i> | <i>Foley,</i> |
| <i>Craven,</i> | <i>Fran. Cestriens',</i> | <i>Lechmere,</i> |
| <i>Cowper,</i> | <i>Weston,</i> | <i>Trevor,</i> |
| <i>Bathurst,</i> | <i>Strafford,</i> | <i>Asbburnham,</i> |
| <i>Aylesford,</i> | <i>Hereford,</i> | <i>Compton.</i> |
| <i>Gerwer.</i> | | |

Then a Motion being made, and the Question being put, That the Judges of the *King's-Bench* do attend in their Places on *Thursday* next ; and that the King's Council, who were concerned in the Trial of *Christopher Layer*, and also the Council for the said *Layer* at the said Trial, and Mr. *Samuel Buckley*, and the Person or Persons who took the said Trial in Short-hand, do attend at the Bar of this House at the same Time ?

It was resolved in the Negative.

Dissentient'

1st, Because the House having resolved, that the Question for ordering the printing the Trial of *Layer* should not now be put, we are of Opinion, that it is thereby made necessary, for the Honour of the House, that the Occasion of the Delay should be inquired into ; for without such Inquiry, we are apprehensive, that the Proceedings of this House may be misconstrued as tending to countenance such Delay.

2^{dly}, Because we think it the Right of this House to inquire into all Neglects or Abuses which concern the Publick ; and tho' it was objected in the Debate, that such Inquiry might carry some Imputation on the Judges, or other Persons concerned, we think, that that Objection may be equally assigned against all Inquiries, but is inconsistent with the Honour and Dignity of the House, and ought not, as we conceive, to be put in the Balance with the Honour of the House and the Publick Service, to which the Question, in our Opinion, has an apparant Tendency.

| | | |
|-------------------------|-------------------|------------------|
| <i>Anglesey,</i> | <i>Strafford,</i> | <i>Trevor,</i> |
| <i>Aylsford,</i> | <i>Compton,</i> | <i>Cooper,</i> |
| <i>Ashburnham,</i> | <i>Weston,</i> | <i>Osborne,</i> |
| <i>Fran. Cestriens,</i> | <i>Lechmere,</i> | <i>Bathurst,</i> |
| <i>Brooke,</i> | <i>Gower,</i> | <i>Foley.</i> |
| <i>Craven,</i> | | |

Die Martis 29^o Januarii, 1722.

The Order was read for taking into Consideration the Protestation enter'd in the Journal of this House upon *Monday* the 21st of this instant *January*; and the several Reasons in the said Protestation being read,

A Motion was made, That it is a groundless Assertion in the Protestation enter'd upon *Monday* the 21st of this instant *January*, that it appeared in the Debate, that there had been an unnecessary and affected Delay in the printing and publishing the Trial of *Christopher Layer*; and the utmost Indignity to this House to suggest, That any Question was necessary to have been put for preventing an Imputation on the Honour of this House for countenancing or conniving at such Delay.

And a Question being stated thereupon,

It was proposed, after the Word [Debate] and before the Word [that] to add these Words; *viz.* [to the Lords who signed the said Protest.]

Which being objected to,

The Question was put, whether those Contents 34 Words shall be made Part of the Question? Not. Cont. 64

It was resolved in the Negative!

Then it was proposed, after the Word [Question] and before the Words [was necessary] to insert these Words, *viz.* [in the Opinion of the same Lords.]

Which being likewise objected to,

The Question was put, whether those Words shall be made Part of the Question?

It was resolved in the Negative.

Then the foregoing stated Question was put?

And it was resolved in the Affirmative.

Dissentient Because the Assertion and Suggestion in the Protestation intended to be censured by the Resolution are quali-

qualified, as the Amendments offered would have stated them, if admitted, by being restrained to the Opinion of the Lords who signed the Protestation ; but those Restrictions are wholly omitted in the Resolution : And we are clearly of Opinion, that if the Assertion and Suggestion had been set forth in the Resolution, as they stand in the Protestation, they could not have been censured with any Colour of Justice ; but that the said Omission being, as we conceive, of a Circumstance extremely immaterial, we think the Censures contained in the Resolution are not applicable to the Assertion and Suggestion found in the Protestation, but to such as are of a very different Nature.

24th, The restraining the Assertions used in Protestations to the Apprehension or Opinion of the Lords protesting, where it contradicts the Opinion of the House, if, as we conceive, so much of the Essence of a Protestation with Reasons, that of the great Number of Instances of such Protestations standing on the Journals of this House, not one would be found regular among them, if that due Caution and Respect to the Opinion of the Majority was omitted ; and therefore it seems clear to us, that the like Censure might be as justly passed on all the Protestations with Reasons, that were ever enter'd, if they were recited and represented in the same manner as we conceive this to be.

| | | |
|------------------------|--------------------|------------------|
| <i>Brooke,</i> | <i>Litchfield,</i> | <i>Lechmere,</i> |
| <i>Fran. Cestrius,</i> | <i>Exeter,</i> | <i>Compton,</i> |
| <i>Scarsdale,</i> | <i>Guilford,</i> | <i>Foley,</i> |
| <i>Cowper,</i> | <i>Osborne,</i> | <i>Batburst,</i> |
| <i>Craven,</i> | <i>Hereford,</i> | <i>Hay,</i> |
| <i>Montjoy,</i> | <i>Uxbridge,</i> | <i>Aberdeen,</i> |
| <i>Alburnham,</i> | <i>Strafford,</i> | <i>Gower,</i> |
| <i>Trevor,</i> | <i>Angleysey,</i> | <i>Bingley.</i> |

Then a Motion was made, That the said Trial has been printed and published with as much Expedition as the Length and Nature of the said Trial, and the careful Perusal and Examination thereof by the Judges, could admit of, and in as little time as has been generally accustomed in the like Cases ; and that it is an unjust Insinuation that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in
the

Hands of the Judges, or that there was any Danger its falling into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges,

And a Question being stated thereupon,

It was proposed to leave out these Words, *viz.* [and that it is an unjust Insinuation, that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges.]

Which being objected to,

Contents 62 The Question was put, whether those
of Cont. 35 Words shall stand Part of the Question?
It was resolved in the Affirmative.

diffident

Because we conceive it to be contrary to the Nature and Course of Proceedings in Parliament, that a complicated Question consisting of Matters of a different Consideration should be put, especially if objected to, that Words may not be deprived of the Liberty of giving their Judgments on the said different Matters, if they think fit.

| | | |
|------------|-------------------|-------------|
| Scarsdale, | Cosper, | Bathurst, |
| Aberdeen, | Fran. Cestriens', | Guilford, |
| Exeter, | Montjoy, | Litchfield, |
| Brooke, | Foley, | Leckmere, |
| Osborne, | Ashburnham, | Bingley, |
| Hay, | Strafford, | Uxbridge, |
| Trevor, | Gower, | Compton, |
| Anglesey, | Craven, | Hereford. |

Contents 58 Then the main Question was put, that
of Cont. 32 the said Trial has been printed and published with as much Expedition, as the length and Nature of the said Trial, and the careful Perusal and Examination thereof by the Judges, could admit of, and in as little Time as has been generally accustomed in the like Cases; and that it is an unjust Insinuation, that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling

N

into

into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges?

It was resolv'd in the Affirmative.

Dissentient'

1st, Because when a Question was moved, on the twenty-first of this Instant, in order to appoint a Day for this House to inquire, if the printing *Layr's* Trial was dispatched with all proper Expedition, or if not, where the Fault lay; which would naturally have led us to have seen if it had fallen into any other Hands than it should have done; tho' we thought it highly reasonable, the Majority of the House then did not, and we were yet willing to have gone into the same Examination; but we cannot conceive it to be fit or agreeable to the Dignity or regular Course of Proceedings in this House to vote or resolve so many Matters of Fact, as are contained in this Resolution, without any Examination at all, or any Evidence given to support them, and which in their Nature, we think, cannot be within the Knowledge of any one Lord present in the Debate.

2^{dly}, As for the Insinuation with which the Protestation is charged by this Resolution, we do not apprehend the Protestation to be justly liable to that Charge; but supposing it to be so, we cannot yet but be of Opinion, that the permitting that Matter to have been fully inquired into, would have been the properest and best Method of preventing or answering that Insinuation.

| | | |
|--------------------|-------------------|---------------------------|
| <i>Litchfield,</i> | <i>Brooke,</i> | <i>Uxbridge,</i> |
| <i>Foley,</i> | <i>Strafford,</i> | <i>Osborne,</i> |
| <i>Gower,</i> | <i>Compton,</i> | <i>Anglesey,</i> |
| <i>Lechmere,</i> | <i>Exeter,</i> | <i>Fran. Cessbriens',</i> |
| <i>Guilford,</i> | <i>Craven,</i> | <i>Montjoy,</i> |
| <i>Scarsdale,</i> | <i>Cowper,</i> | <i>Batburst,</i> |
| <i>Trevel,</i> | <i>Aberdeen,</i> | <i>Hereford.</i> |
| <i>Bingley,</i> | <i>Hay,</i> | |

Then a Motion was made, that this House not capable of doubting of the Truth of the traiterous Conspiracy communicated to them by his Majesty in his most Gracious Speech from the Throne, has ever since that Time received very great Satisfaction from some convincing *Proofs* touching the same, and is firmly persuaded, that
such

such further Satisfaction will be yet in due time given, as must render it impossible for any one to doubt thereof.

And a Question being stated thereupon,

After Debate, the previous Question was put, whether the said Question shall be now put?

It was resolved in the Affirmative.

Dissentient

1st, Because to the best of our Apprehensions, no Part of the Protestation gave Occasion for the putting of such a Question; for it was, as we conceive, clearly admitted in the Protestation, that his Majesty's most Gracious Speech from the Throne had given Satisfaction as to the Truth of the Conspiracy in general; and the excepting *Lay*'s Trial therein did plainly allow, that the said Trial had, as far as they went, opened the Particulars; and yet the Resolution, as we take it, carries with it an Insinuation, that the Protestation had raised a Doubt concerning the Truth of the said traiterous Conspiracy; which Insinuation is, in our Opinion, entirely groundless.

2^{dly}, The said several Resolutions importing Censures, as we conceive, on the said Protestation, and being not warranted by more than one Precedent, that we can find, on the Journals of this House; and the Liberty of Protesting with Reasons being an unquestionable Right and essential Privilege of the whole Peerage, we are of Opinion that the said Resolutions tend to discountenance and discourage the due Liberty of Protesting, and in that Respect may be, as we apprehend, of dangerous Consequence.

*Litchfield,
Osborne,
Guilford,
Compton,
Batburst,
Bingley,
Hay,
Montjoy,*

*Brooke,
Fran. Cestriens',
Craven,
Anglesey,
Foley,
Lechmere,
Scarsdale,*

*Aberdeen,
Strafford,
Hereford,
Conyer,
Uxbridge,
Exeter,
Gower.*

Die Sabbati 16^o Februarii, 1722.

Report was made from the Committee of the whole
N 2 House,

House, of the Amendments made to the Bill for punishing Mutiny and Desertion.

And the Amendment in Relation to the Number of Forces to be allowed, which was to specify that 16,449 effective Men and 1,815 Invalids should be the Number instead of all the Forces then on Foot, being read a second time,

Contents 70
Not Cont. 25

The Question was put, whether to agree with the Committee in the said Amendment?

It was resolved in the Affirmative.

Dissentient

1st, Because, as we conceive, the keeping an Army of regular Troops in this Kingdom, under Martial-Law, consisting of a greater Number than what we take to be necessary for the Guard of the King's Person and Defence of the Government, is of the most dangerous Consequence to the Constitution of this Kingdom, and, in our Opinion, may bring on a total Alteration of the Frame of our Government from a legal and limited Monarchy to a despotick; and we are induced to be of this Judgment, as well from the Nature of Armies and the Inconsistency of so great a Military-Power and Martial-Law with the Civil Authority, as from the known and universal Experience of other Countries in *Europe*, which by the Influence and Power of Standing Armies, in Time of Peace, have from limited Monarchies, like ours, been changed into absolute; for which Reason we cannot give our Consent to this Amendment, whereby the present Number of Troops amounting in the Whole (Invalids included) to fourteen thousand odd hundred Men (which we think abundantly sufficient for all good Purposes) will be increased to near four thousand more, altho' there be at this Time no Ground to apprehend an Invasion from a foreign Enemy, or, as we believe, any Insurrection or Rebellion at home.

2^{dly}, Because that which seems to have given Rise to this Augmentation of the Army, is the late treasonable Conspiracy which his Majesty at the Opening of this Session acquainted his Parliament with; and that Conspiracy having been discovered above eight Months since, and the further detecting and punishing the Conspirators hav-

ing

ing been ever since in the Hands of a faithful and vigilant Ministry, we cannot think it at all probable the Conspiracy should be still carrying on ; or if any Dregs of it should be yet remaining, that the Government cannot be easily secured by the Civil Authority, assisted with so great a Number of Troops as are at present on Foot ; and therefore we cannot think ourselves justifiable to the Kingdom, whose Rights and Liberties we are intrusted to preserve, had we given our Votes to this Augmentation of Troops, when no evident Necessity or just Occasion appeared to us for such an Increase.

3dly, Because the Act passed this Session, to enable his Majesty to apprehend and detain in Custody any Person suspected of being engaged in any treasonable Conspiracy for above twelve Months (tho' that Power had never been granted to the Crown before half that Time at once, and that when there was an actual Rebellion or an expected Invasion) was so great a Power added to the former Authority of the Crown, that we cannot but think altogether sufficient to prevent any Mischiefs from treasonable Plots or Practices which may be attempted or carried on by any rebellious or disaffected Persons without increasing the Army, which in its present State is not submitted to, but as necessary for avoiding a greater Evil.

4thly, Tho' the Augmentation by this Bill is only for one Year, yet, we fear, this will be a Means for the continuing them in Perpetuity ; for we think it probable there will at all Times hereafter be easily found as good Reason for continuing this Increase, as there is now for making it.

5thly, Because, we think, the greatest and only lasting Security to his Majesty and his Government is in the Hearts and Affection of his Subjects, and if the Disaffection or Discontents which have of late happened from some unfortunate Proceedings are thought by any to be an Argument for raising more Forces, we think it the Duty of all good Subjects, who wish well to his Majesty and our present happy Establishment, to use their best Endeavours for curing those Discontents by removing or lessening the Occasion thereof, and consequently that there should not be an Augmentation of the Army, which

is already sufficiently burthensome to the Subject, both by the great Charge of maintaining them, and by the Uneasiness to the Place where they are quartered, because thereby the Charge to the Subject will be considerably increased, which, as we apprehend, ought most carefully to be avoided in our Circumstances, when the Load of Taxes is already so great, and the Kingdom involved in so immense a Debt, that nothing but the most prudent Oeconomy and good Husbandry can give us any probable Prospect of easing it; and therefore not being convinced of any real and just Grounds for such Increase of Troops, do fear that this will not take away or lessen, but rather increase the Discontents and Disaffection of the People; and, in that Respect, weaken his Majesty's Government in a greater Degree than it will be strengthen'd by this Addition of Forces, allowing something for the Possibility of false Mulcters.

| | | |
|-----------------------------|--------------------|------------------------|
| <i>W. Ebor,</i> | <i>Osborne,</i> | <i>Compton,</i> |
| <i>Scarsdale,</i> | <i>Bristol,</i> | <i>Batburst,</i> |
| <i>Poulett,</i> | <i>Litchfield,</i> | <i>Strafford,</i> |
| <i>Abburnham,</i> | <i>Gower,</i> | <i>Fran. Castriens</i> |
| <i>Aberdeen,</i> | <i>Unbridge,</i> | <i>Treuer,</i> |
| <i>Hay,</i> | <i>Foley,</i> | <i>Cowper,</i> |
| <i>Oxford and Mortimer,</i> | <i>Montjoy.</i> | |

Die Sabbati 9^o Martii, 1722.

Complaint being made to the House, That in a Paragraph of the printed Report from the Committee appointed by Order of *the House of Commons* to examine *Christopher Layer*, and others, and to whom several Papers and Examinations laid before the House relating to the Conspiracy mentioned in his Majesty's Speech at the Opening the Session to be carrying on against his Person and Government, were referred, the Lord *Strafford* and Lord *Kinnoul* are mentioned in the Deposition of *Andrew Pancier*, that he had been told by one *Skeene* (now in Custody) that the said Lords knew of an Invasion intended by Forces from abroad, and were concerned in the Management of the Conspiracy here,

And thereupon a Motion being made, That the said *Andrew Pancier* and ——— *Skeene* be immediately sent for to attend at the Bar of this House.

After

After Debate, the Question was put, that
 Contents 29 *Andrew Pancier* and — *Skeene* be
 NotCont.64 immediately sent for to attend at the
 Bar of this House?

It was resolved in the Negative.

Dissentient'

1st, Because the Earl of *Kinnoul* and the Earl of *Strasford* having severally complained to the House, that they find themselves reflected on in a printed Deposition of one *Andrew Pancier*, wherein he deposeth, That one *Skeene* (now in Custody) had acquainted him, among other Things, that the said Earls knew of the late Conspiracy, and were concerned in the Management of it here; and the said Earls alledging, that they did not see by the Report, in which that Deposition is found, that the said *Skeene*, tho' in the Hands of the Government, had been so much as questioned touching the said Hearsay (which Observation we find to be true) we think it highly reasonable to have complied with the Motion and Request of the said Lords, That the said *Pancier* and *Skeene* might be examined at the Bar of this House in Relation to that Matter only; the like Request, for the better clearing the Reputation of any noble Lord, when he hath thought it unjustly aspersed, having never been denied, that we know of; but on the Contrary, it was, not long since, granted in the Case of the Earl of *Sunderland*, tho' the Examination which he thought reflected on his Honour was not come into Print when he made his Complaint; which, according to our Judgment, was not so strong a Case, for granting the Motion, as the present is.

2^{dly}, Because the said Deposition, as far as it is printed, contains nothing but what one Deponent heard another say (except as it contains a Charge on *Skeene* for saying it) we think it was very natural and proper, as well for the Advancement of Justice, as for the Vindication of the noble Lords requesting it, to trace the said Hearsay, if possible, to the Fountain-Head, or at least so far as to know, from the Person charged with relating it, whether he would deny his having related it; or if not, whether he would confess the Falsity of what he had so related, or undertake to make it good by his own Testimony, or otherwise.

34th, We think there could be no Inconvenience in examining, as moved, to find whether there was any, and what Foundation for this Hearsay ; it not being an Anticipation of the Course of Justice (as examining a Part of the Evidence against any Man, or a Part of an Accusation, would be) since the Swearing what one Man said of a third Person is in no sort Evidence, either in Law or Reason, to support a Conviction, or even to ground an Accusation upon, in any Form whatsoever.

45th, Since a mere Hearsay, being no Evidence in the least Degree, cannot be made a Foundation for any legal Proceeding, it is impossible for any noble Lord, whose Honour may be affected by it, to hope to clear himself on any Trial, or other like Opportunity that can be given him to make his Defence ; and therefore, since there is no other Method, that we can think of, so proper or effectual, in our Opinions, as an Examination of the Nature of that moved for, we think it ought to have been ordered, and that every noble Lord may possibly, in Time, be hurt by the Consequence of this Precédent.

5th, We cannot think that the examining, as moved for, into this Hearsay only, could have made any Difference with the other House, since it is inconceivable by us, that any Number of Gentlemen, who may have by Accident (for we hope it is no otherwise) in setting forth the Deposition of *Pancier* as a Charge against *Skrene*, happened to asperse the Reputation of some of the Peers of the Realm, could resent either that these Lords should desire, or the House permit them to clear themselves as soon and as effectually as possible of that Hearsay.

| | | |
|-----------------------------|------------------------------|------------------|
| <i>Stratford,</i> | <i>Fran. Cestriens',</i> | <i>Osborne,</i> |
| <i>Aylesford,</i> | <i>Guilford,</i> | <i>Arundell,</i> |
| <i>Poulett,</i> | <i>Anglesey,</i> | <i>Craven,</i> |
| <i>Bristol,</i> | <i>Foley,</i> | <i>Bruce,</i> |
| <i>Batburst,</i> | <i>Exeter,</i> | <i>Hay,</i> |
| <i>Scarsdale,</i> | <i>Cowper,</i> | <i>Uxbridge,</i> |
| <i>Willoughby de Broke,</i> | <i>Berkeley of Stratton,</i> | <i>Weston,</i> |
| <i>Litchfield,</i> | <i>Compton,</i> | <i>Bingley.</i> |

Die Jovis 21^o Martii, 1722.

Complaint being made to the House by the Earl of
Scarsdale,

Scarsdale, Earl of *Strafford*, Earl *Cowper*, Lord *Craven*, Lord *Gower*, Lord *Bathurst*, and Lord *Bingley*. That in one or more of the Examinations of *Christopher Layer*, in the printed Appendixes referred to in the Report from the Committee appointed by Order of *the House of Commons* to examine *Christopher Layer* and others, it is set forth, That one *John Plunkett* told him the said *Layer*, that the said Lords were of a Club or Meeting called, in some of the said *Plunkett's* Letters, *Burford's* Club.

And the said Lords severally declaring the same to be false and groundless,

A Motion was made, and the Question was put, that *John Plunkett*, now in Custody, being the Person who, *Layer* says, in one or more of his Examinations, told him, that several Lords of Parliament, therein named, were of a Club or Meeting called, in some of the said *John Plunkett's* Letters, *Burford's* Club, be forthwith brought to the Bar of this House, to be examined touching the said Matter only?

It was resolved in the Negative.

Dissentient'

And for Reasons we refer to those enter'd on a Protestation made on the 9th Day of this Instant *March*, to a Resolution of the like Nature.

Scarsdale,
Aylesford,
Bathurst,
Montjoy,
Weston,
Compton,
Exeter,

Bingley,
Uxbridge,
Gower,
Hay,
Cowper,
Foley,

Craven,
Litchfield,
Dartmouth,
Strafford,
Poulett,
Guilford.

Die Veneris 29^o Martii, 1723.

A Petition of *Francis* Lord Bishop of *Rocheſter*, Prisoner in his Majesty's *Tower of London*, was presented to the House and read, setting forth, That by Order of *the House of Commons* he has received a Copy of a Bill for inflicting certain Pains and Penalties upon him for supposed Crimes, of which he is innocent: That by another Order of the said House (upon the Petitioner's Letter to the Speaker) Council and Solicitors are allowed to come to him to assist him in the making his Defence.

since; but the Petitioner finding by a standing Order of this most honourable House of the 20th of *January* 1673, that no Lord may appear by Council before *the House of Commons* to answer any Accusation there, he is under great Difficulty; and that he may not do any Thing which may give Offence to their Lordships, and be derogatory to the Rights of Peerage, in which, as a Member of this House, he has the Honour to partake, the Petitioner humbly prays their Lordships Directions for his Conduct in this Behalf.

And the standing Order being read,

A Motion was made, and the Question
Quæritur 32 was put, that the Bishop of *Rocheſter*
Non Con. 73 being a Lord of Parliament ought not
 to answer or make his Defence by
 Council or otherwise, in *the House of Commons*, to any
 Bill or Accusation there depending?

It was resolved in the Negative.

Deſertion.

1st. *Beſide*, we conceive, the permitting the Lord Bishop of *Rocheſter* to make his Defence in the *House of Commons* would be directly contrary to the Words and Meaning of the standing Order of the House, bearing Date the 20th of *January* 1673, which expreſſy and clearly orders, That for the future no Lord (which extends to Lords Spiritual as well as Temporal) ſhall go down to *the Houſe of Commons*, or ſend his Answer in Writing, or appear by Council to answer any Accusation there; and it is obſervable that this Order is worded abſolutely, and not qualified by the Words [without Leave of the Houſe], as the following ſtanding Order of the 20th of *November* 1690, which prohibits Lords from going into *the Houſe of Commons* while the Houſe is ſitting, is qualified; from which different penning, as well as from the Preamble of the ſaid firſt mentioned Order which ſhews the Miſchief deſigned to be prevented was, the giving Leave, in Caſes of Lords deſiring it, to appear or answer Accuſations in *the Houſe of Commons*) we infer that the ſaid Order of *January* 1673, was meant as a Rule for all future Times, that if Leave ſhould be aſked by a Lord of Parliament to answer or make a Defence to an Accuſation, in any Form, as we conceive,

in *the House of Commons*, it ought to be denied, as deeply intrenching on the Privileges of this House.

2dly, The said standing Order, in Affirmance of which the Question was moved, ought to be of the greater Weight, in our Opinions, it having been founded on the Consideration and Report of a Committee, to whom it was particularly referred to consider the Practice of Lords desiring Leave to answer Accusations in *the House of Commons*, on the Perusal of Precedents in that Committee, and upon serious Consideration and Perusal of the same Precedents in the House itself.

3dly, We cannot apprehend but that a Bill, by which Crimes are charged and a Preparation is made to inflict Penalties, if the Crimes are proved, contains clearly an Accusation, especially when a Day is given, and Council allowed by *the House of Commons* to the Person against whom the Crimes are alledged to make a Defence to the same; which Proceeding, though in the Legislative Capacity of that House, carries in it all the essential Parts of a judicial Trial; and we therefore conceive that this House ought to be more jealous of their Members answering in *the House of Commons* an Accusation in this Form, rather than in any other, since thereby they submit themselves to try the Point of their being Guilty or not Guilty in *the House of Commons*, and that in Order to receive the Sentence and Judgment of that House by passing or rejecting the Bill; and this, in our Opinions, more deeply intrenches, as the standing Order expresseth it, on the Privileges of this House, than a Lord's going down to *the House of Commons*, during a Debate there, to prevent an Impeachment, doth; the latter being only to prevent an Accusation, but the former is, as we clearly conceive, to answer an Accusation there; the very Thing prohibited by the standing Order.

4thly, We think the Accusation which Lords are prohibited to answer, by this standing Order, must be chiefly, if not only understood of an Accusation, couched in a Bill, as in the present Case, since we never heard that any Lord of Parliament did at any Time answer to, or defend in Person, or by Council, an Impeachment in *the House of Commons*, tho' they may have gone down to that House by Connivance to prevent such Impeachment; and therefore Lords defending them-

themselves in *the House of Commons* against an Impeachment could not be the Mischief intended to be cured by the said standing Order.

5thly, That *the House of Commons*, on Bills to inflict Penalties, do proceed, strictly speaking, in their Legislative Capacity, is certainly true; and yet it is plain to us, that in Reality they partake in such Cases with *the House of Lords* in the Judicature, or which is all one, in trying and adjudging Offenders to Punishment; and tho' the Lords should, in very extraordinary Cases, think fit to concur in such a Method of punishing, yet it is, in our Opinions, going by much too far for the Lords to permit any of their Body to make Defence in *the House of Commons* either by himself or Council; which is letting themselves down to a very great Degree, and giving an unnecessary Encouragement to that Manner of Proceeding; and when the Lords have so far submitted to this Course, we think there is little Reason to expect that afterwards the Commons will ever appear at the Lords Bar as Accusers, when they can by this Way make themselves as much Judges, even over Lords, as in this Proceeding by Bill the Lords themselves are.

6thly, Though Lords, by not being permitted to appear, either in Person or by Council, to defend themselves in *the House of Commons*, may be thought possibly to lose some Advantage in their Defence, yet, we think, it was and is the true Meaning of the standing Order first mentioned, that a Lord should rather suffer something of Inconvenience in that Particular, and commit his Cause to God and the Justice of the House, of which he is a Member, and who are his proper Judges, than in any Degree debase or derogate from the legal State and Dignity of the Lords in general.

7thly, Although there be, as we conceive, a very manifest and important Difference in Reason, as to the Matter of this Question, between the Case of Bishops, who are declared by the standing Order of the 23d of May 1628, to be only Lords of Parliament, and not Peers, for they are not of Trial by Nobility, and that of the Peers of the Realm, who undoubtedly, for Matters of Treason and Felony, are triable by their Peers only; yet since, by the standing Order first mentioned,

Bishops

Bishops are as much and as clearly prohibited to answer an Accusation in *the House of Commons*, as the Peers and Lords Temporal are, we cannot but apprehend, with the deepest Concern, that this Case may be used hereafter as a Precedent, though, as we take it, far from being a Precedent in Point, to bring by Degrees the Peers of the Realm to defend themselves against Accusations of the like Nature in *the House of Commons*; which if once brought to be a Practice, we are of Opinion that the Peers of the Realm would in great Measure be degraded from their Peerages, and so by weakening and debasing the Order of Nobility, which in its Institution was meant, or at least hath proved a Lustre and Security to the Crown, the Safety as well as Dignity of the Crown itself may be hereafter in a great Degree impaired.

| | | |
|-------------------|--------------------|--------------------|
| <i>Scarsdale,</i> | <i>Uxbridge,</i> | <i>Dartmouth,</i> |
| <i>Cowper,</i> | <i>Weston,</i> | <i>Gower,</i> |
| <i>Strafford,</i> | <i>Bruce,</i> | <i>Trevor,</i> |
| <i>Poulett,</i> | <i>Litchfield,</i> | <i>Aylesford,</i> |
| <i>Hay,</i> | <i>Montjoy,</i> | <i>Ashburnham,</i> |
| <i>Foley,</i> | <i>Bathurst,</i> | <i>Compton,</i> |
| <i>Arundell,</i> | <i>Bingley,</i> | <i>Guilford.</i> |

Die Veneris 5o Aprilis, 1723.

A Petition of *Francis* Bishop of *Rocheſter*, Prisoner in the *Tower*, was presented to the House and read, setting forth, That on *Thursday* the 4th Instant, about three o' Clock in the Afternoon, Colonel *Williamson*, Deputy-Lieutenant of the *Tower*, attended by Mr. *Serjeant*, the Gentleman-Porter, and by two Warders, came up to the Petitioner's Room while he was at Dinner, and having put his two Servants under the Custody of Warders below, told the Petitioner he must search him; the Petitioner asked him for his Warrant; he answered, he had Authority from the Ministry, affirming it upon his Salvation; but the Petitioner refused to be searched till he shew'd it; he then said he had a verbal Order, but refused to say from whom; the Petitioner told him, if it were verbal only, it did not appear to him, and he would not be searched; he endeavoured nevertheless to search the Petitioner's Pockets himself by Force, but the

Petiti-

Petitioner wrapped his Morning-Gown about him, and would not suffer him till he shewed his Warrant, which the Petitioner demanded five or six Times to no Purpose; he then ordered the two Warders attending him to come to the Petitioner and do their Duty, and one of them laid Hands upon him, and began to use Violence; and though the Petitioner knocked and called often for his Servants, Colonel *Williamson* said they should not, nor were they permitted to come near him; upon this, the Petitioner submitted, and they took every Thing out of his Pockets, and searched his Bureau and Desk, and carried away with them two Seals; they seiz'd also a Paper in the Petitioner's Pocket, but that being a Letter to his Solicitor about the managing of his Cause, which the Petitioner thought they could have no Pretence to seize while he was under the Protection of Parliament, he took it again from them and tore it, but they carried a Part of it along with them; they searched also his two Servants below, and took away a Seal from one of them; and those two Servants likewise demanded their Warrant, but they had none to produce; the Petitioner therefore, as a Lord of Parliament, though under Confinement, humbly prays that their Lordships would be pleased to take these Matters into serious Consideration, and grant him such Relief and Protection as their Lordships shall judge proper against such unprecedented, illegal and insolent Usage.

And thereupon a Motion was made, and
 Contents 24 the Question was put, that Colonel
 Not Cont. 56 *Williamson*, the Deputy-Lieutenant
 of the *Tower of London*, Mr. *Serjeant*,
 the Gentleman-Porter, the two Warders who attended
 Colonel *Williamson* Yesterday in the Apartment of the
 Bishop of *Rocheſter*, Prisoner in the *Tower of London*,
 and the two Servants of the said Bishop attending his Lord-
 ship, do attend the Bar of this House immediately, to give
 an Account of the Matters mentioned in the said Petition &
 It was resolved in the Negative.

Dissentient

1st, Because the Petitioner, as a Lord of Parliament and Member of this House, though no Peer of this Realm, hath an unquestionable Right, under all Circumstances,



circumstances, to the Justice and Protection of this House against any Person whatsoever, who, during the Sitting of Parliament, commits any Act of Violence to his Person or Property, which this House may adjudge to be a Breach of Privilege; and therefore as, we conceive, the Facts alledged in the Petition, if the same are true, and no Account given of them by the Persons concerned, to the Satisfaction of this House, are an unwarrantable Attempt upon a Member of this House, we think, that injustice to the Petitioner, and to the Honour and Privileges of this House, there ought to have been an immediate and impartial Examination by this House of the Persons concerned, we finding no Instance on the Journals of this House, where any Member of the House hath complained, by Petition or otherwise, of the least Violence or Injury to his Person, during the Time of Privilege, wherein the House hath not ordered an Examination of the Facts so complained of.

2^{dly}, Because it appears to us, that the Petitioner being under Imprisonment, and a Bill depending against him in *the House of Commons*, that House having allowed him the Benefit of Council and Solicitors for making his Defence, were proceeding against the Petitioner on that Bill, in all Probability, at the very Time the Matters complained of were transacted; and as that Bill may soon come under the Consideration and Judgment of this House, the seizing the Petitioner's Letter to his Solicitor, or any Thing which may concern his Defence, we are of Opinion, ought to have been examined into, it being, as we conceive, against the Rules of natural Justice, the Laws of all Nations, and the fundamental and known Laws of this Realm, that any Papers or other Things in the lawful Possession of the Person so accused, and which may relate to his Defence, should be forcibly wrested from him; or that any Person, and more especially a Lord of Parliament, being under Imprisonment and Accusation for High Treason, should by Terror or other Violence, be, without just Cause, in any Degree disturbed in or disabled from making his Defence.

3^{dly}, Because the refusing to enter into the Examination of the Matters complained of by the Petition may, in our Opinions, be construed to be a Justification of the Proceedings therein alledged, even though there was not

a reasonable Occasion for the same; and it being suggested in the Petition, that the Deputy-Lieutenant of the Tower did affirm to the Prisoner, upon his Salvation, that he had a verbal Order from the Ministry, though he refused to say from whom, and not pretending that what he did was by his own Authority, we are of Opinion that it was of the greatest Consequence to the Honour of his Majesty's Government, that this House should have examined into this Proceeding; and the rather, because we conceive it to be of the highest Importance to the free and impartial Administration of Justice, that this House should on all Occasions discountenance all Appearances of Force, especially on a Lord of Parliament imprisoned and accused of High-Treason.

4^{thly}, Because, we think, that if an unjustifiable Violence be offered to the Person or Privilege of any Member of this House, and not examined into, it may prove an Encouragement to commit the like, if not further Abuses on any other Member of this House in future Time.

Sturford,
Croft,
Eastarpe,
Hay,
Montjoy,

Guilford,
Lechmere,
Scarsdale,
Poulett,
Weston,

Foley,
Litchfield,
Asbburnham,
Bingley,
Bruce.

Die Luna 29^o Aprilis, 1723.

Hic 3^a vice lecta est Billa, entitled, An Act to inflict Pains and Penalties on *John Plunkett*.

Contents 87 The Question was put, whether this Bill
Not Cont. 34 shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because Bills of this Nature, as we conceive ought not to pass but in Case of evident Necessity, when the Preservation of the State plainly requires it; which we take to be very far from the present Case, the Conspiracy having been detected so long since, and the Person accused seeming to us very inconsiderable in all Respects, and who, from the many gross Untruths, it now appears, he has wrote to his Correspondence Abroad, must appear to have been an Impollor and Deceiver even to his own Party.

2^{dly},

2dly, Proceedings of this Kind, tending to convict and punish, are in their Nature, though not Form, Judicial ; and do let the Commons, in effect, into an equal Share with the Lords in Judicature ; which the Lords ought to be very jealous of doing, since the Power of Judicature is the greatest distinguishing Power the Lords have ; and there will be little Reason to hope, that if Bills of this Nature are given way to by the Lords, the Commons will ever bring up Impeachments, or make themselves Accusers only, when they can act as Judges.

3dly, This Bill, in our Opinion, differs materially from the Precedents cited for it ; as to the Case of Sir *John Fenwick*, 'tis plain, by the Preamble of that Bill, that the Ground most rely'd on to justify Proceeding against him in that Manner was, that there had been two legal Witnesses proving the High-Treason against him, that a Bill was found against him on their Evidence, and several times appointed him for a legal Trial thereon, in the ordinary Course, which he procured to be put off, by undertaking to discover, till one of the Evidences withdrew ; so that it was solely his Fault, that he had not a legal Trial by Jury ; all which Circumstances not being in the present Case, we take it, they are not at all to be compared to one another.

4thly, As to the Acts which passed to detain *Counter* and others concerned in the Conspiracy to assassinate the late King *William* (of Glorious Memory) we conceive, those Acts were not, in their Nature, Bills of Attainder, as this is, but purely to enable the Crown to keep them in Prison, notwithstanding the Laws of Liberty ; whereas this is a Bill to inflict Pains and Penalties, and does import a Conviction and Sentence on the Prisoner, not only to lose his Liberty, but also his Lands and Tenements, Goods and Chattles, of which he having none, as we believe, we cannot apprehend why it was inserted, and this Bill now drawn on the Plan of *Counter's* &c. unless it was to make a Precedent for such Forfeitures in Cases of Bills which may hereafter be brought to convict Persons, who have great Estates, upon Evidence which does not come up to what the Law in Being requires.

5thly,

5^{thly}, If there be a Defect of legal Evidence to prove this Man guilty of High-Treason, such Defect always was ; and we think if Bills of this Nature, brought to supply original Defects in Evidence, do receive Countenance, they may become familiar, and then many an innocent Person may be reached by them, since 'tis hard to distinguish, whether that Defect proceeds from the Cunning and Artifice or from the Innocence of the Party.

6^{thly}, This Proceeding by Bill does not, in our Opinions, only tend to lay aside the Judicial Power of the Lords, but even the Use of Juries ; which distinguishes this Nation from all its Neighbours, and is of the highest Value to all who rightly understand the Security and other Benefits arising from it ; and whatever tends to alter or weaken that great Privilege, we think, is an Alteration of our Constitution for the worse, though it be done by Act of Parliament ; and if it may be supposed that any of our fundamental Laws were set aside by Act of Parliament, the Nation, we apprehend, would not be at all the more comforted from that Consideration that the Parliament did it.

7^{thly}, It is the Essence of Natural Justice, as we think, but it is most surely the Law of the Realm, that no Person should be tried more than once for the same Crime, or twice put in Peril of losing his Life, Liberty or Estate ; and though we acquiesce in the Opinion of all the Judges, that if this Bill pass into a Law, *P/unkett* cannot be again prosecuted for the Crimes contained in the Preamble of the Bill, yet it is certain, that if a Bill of this Kind should happen to be rejected by either House of Parliament, or by the King, the Person accused might be attacked again and again, in like Manner, in any subsequent Session of Parliament, or indicted for the same Offence, notwithstanding that either House of Parliament should have found him innocent, and not passed the Bill for that Reason ; and we conceive it a very great Exception to this Course of Proceeding, that a Subject may be condemn'd and punish'd, but not acquitted by it.

8^{thly}, We think it appears in all our History, that the passing Bills of Attainder, as this, we think, in its Nature is (except as before is said, in Cases of absolute
and

and clear Necessity) have prov'd so many Blemishes to the Reigns in which they pass'd; and therefore we thought it our Duty in time, and before the passing this Bill, as a Precedent, to give our Advice and Votes against the passing it, being very unwilling, that any thing should pass which, in our Opinions, would in the least derogate from the Glory of this Reign.

9thly, We apprehend it to be more for the Interest and Security of his Majesty's Government, that Bills of this Nature should not pass than that they should; since Persons who think at all cannot but observe, that in this Case some things have been received as Evidence, which would not have been received in any Court of Judicature; that Precedents of this Kind are naturally growing (as, we think, this goes beyond any other which has happened since the Revolution) and if from such like Observations they shall infer, as we cannot but do, that the Liberty and Property of the Subject becomes, by such Examples, in any Degree more precarious than they were before, it may cause an Abatement of Zeal for a Government founded on the Revolution, which cannot, as we think, be compensated by any the good Consequences which are hoped for by those who approve this Bill.

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|-------------------------------|--------------------------|--------------------|
| <i>Scarsdale,</i> | <i>Weston,</i> | <i>Craven,</i> |
| <i>Willoughby de Broke,</i> | <i>Hay,</i> | <i>Foley,</i> |
| <i>Poulett,</i> | <i>Masbam,</i> | <i>Berkeley of</i> |
| <i>Cowper,</i> | <i>Brooke,</i> | <i>Stratton,</i> |
| <i>Batburst,</i> | <i>Compton,</i> | <i>Aylesford,</i> |
| <i>Gower,</i> | <i>Fran. Cestriens',</i> | <i>Bruce,</i> |
| <i>Anglesey,</i> | <i>Montjoy,</i> | <i>Litchfield,</i> |
| <i>Guilford,</i> | <i>Uxbridge,</i> | <i>Dartmouth,</i> |
| <i>Osborne,</i> | <i>Bingley,</i> | <i>Asburnham,</i> |
| <i>Trewar,</i> | <i>Exeter,</i> | <i>Lechmere,</i> |
| <i>Oxford & Mortimer,</i> | <i>Sträfford,</i> | <i>Cardigan.</i> |

Die Jovis 20 Maii, 1723.

After hearing Council and Witnesses upon the Bill to inflict Pains and Penalties on *George Kelly*, alias *Johnson*, in behalf of the said *Kelly*,

And Debate thereupon,

The

The Question was put, that the Council for the Prisoner may be at liberty to proceed as they desired to examine Witnesses to prove, by several Circumstances, that the Letters dated the 20th of *April* 1722, given in Evidence for the Bill, were not dictated by the Bishop of *Rochester* to the Prisoner *George Kelly*?

It was resolved in the Negative.

Dissentient

1st, Because it was insisted on by the Prisoner's Council, that the Proof desired was necessary to his Defence, and if allowed to be made would contribute to satisfy the House of the Prisoner's Innocence of the Crimes charged on him by the Bill; for which Reason alone, if there was no other, we think the Witnesses ought to have been examined, it being, in our Opinions, against the constant Course and Rules of Justice, in criminal Proceedings of all kinds, to preclude the Prisoner's Defence by refusing to hear his Witnesses, if they are legal and competent, and in Derogation of the Honour and Justice of the House, on this Occasion, to anticipate the Judgment of the House in the least Circumstance which the Prisoner or his Council insist on to be material to his Defence, and which may, if proved, be of Weight in the Consideration and Judgment of the House.

2^{dly}, It appears to us to tend directly to prove the Guilt or Innocence of the Prisoner, to discover, whether the Bishop of *Rochester* did dictate to the Prisoner the Letters mentioned in the Question; because it was declared to the House by the Council for the Bill, in opening the Charge against the Prisoner, that the Letters, though wrote by the Prisoner, were dictated to him by a greater Person; and although the Council for the Bill when called upon did not think fit to name that greater Person, yet it being suggested in the Report of *the House of Commons*, communicated to this House, and it being universally supposed hitherto, that the Bishop of *Rochester* did dictate the said Letters to the Prisoner, it became, in our Opinions, incumbent on the Prisoner to give the House what Satisfaction he could in that Particular, the same being made a Circumstance and Part of the Accusation against him, and if falsified, or rendered in-

incredible, might influence the Judgment of the House in other Circumstances.

3^{dly}, Because the Declaration of *Philip Neynos* deceased, though not signed or sworn by him, hath been allowed by the House to be read and given in Evidence, in Proof of the particular Facts charged on the Prisoner in the Bill; in which Declaration the Prisoner is expressly charged by the said *Neynos* to have frequently told him, that the Bishop of *Rockester* held Correspondences with the *Pretender* and the *Pretender's* Agents, and that the Prisoner was employ'd by the Bishop in writing for him, and carrying on the said Correspondences, and that he had several times left Mr. *Kelly* at the Bishop's Door, when Mr. *Kelly* went into the Bishop's House and stayed there an Hour or two, and upon coming back to him that the Prisoner made Apologies for staying so long, and told him he had been writing the Bishop's Letters, which he always apprehended to be the foreign Correspondence of the Bishop with the *Pretender's* Agents; for which Reason also, we conceive, the Proof desired ought to have been received, because it may be thought a Denial of Justice, by this House, to the Prisoner, not to permit him to answer, even by legal Evidence, the particular and direct Evidence, which the House hath allowed to be given against him.

4^{thly}, Although the Prisoner may be guilty of a treasonable Correspondence, if he wrote the Letters mentioned in the Question, and the same were not dictated to him by any Person whatsoever, yet the Facts charged in the Bill, having been endeavoured to be proved, not by direct Proof of the Facts themselves, but by Circumstances, in our Opinions, the Prisoner's Defence must be applied to answer the several Circumstances; and it is, as we conceive, equally unjust to deny him the Liberty of falsifying that Circumstance of his writing the Letters, being dictated to him by the Bishop, as it would be, to refuse to allow him to prove, that the said Letters were not, or could not be wrote, or sent to the Persons to whom they are suggested or charged to have been wrote or sent, or to refuse him to prove by Circumstances, that the Prisoner himself did not or could not write the same, at the particular Times and Places the same are suggested

to be so wrote or sent by him, or to deny him Liberty to falsify, by Circumstances, any other Circumstance relating to the supposed treasonable Correspondence charged on him by the Bill.

5thly, The Council for the Bill having alledged, as one Reason against the Examinations desired, that they were not prepared to answer that Evidence, might have been a Ground for the House to have allowed them a reasonable Time for such Preparation; but in our Opinions that Consideration ought not to weigh against the Prisoner's giving the Evidence to the House which he was prepared to give, especially since it was alledged, that the Examinations now desired were desired on the Prisoner's Part to have been made at the Bar of *the House of Commons*, and thereby so long ago publicly notified by the Prisoner.

6thly, Because the Refusal of the Proof of any Circumstance of the Prisoner's Defence, if such Refusal be not just, must in its Consequence affect the Justice of the whole Proceeding against the Prisoner, because it deprives the House of the Liberty of forming a Judgment upon the whole Case, and tends, so far as that Particular goes, to subject this Proceeding against the Prisoner to the Objection of Partiality, which is most highly dishonourable to this House, especially considering the Latitude which hath been allowed in other Parts of the Examination on this Occasion.

| | | |
|-------------|-----------------------|-----------------------|
| Gower, | Leigh, | Wharton, |
| Guilford, | Tadcaster, | Arundell, |
| Strafford, | Bathurst, | Masbam, |
| Litchfield, | Pomfret, | Foley, |
| Cowper, | Northampton, | Willoughby de Brooke, |
| Trevor, | Berkeley of Stratton, | Brooke, |
| Osborne, | Denbigh, | Bingley, |
| Montjoy, | Scarsdale, | Asbburnham, |
| Poulett, | Starwell, | Uxbridge, |
| Craven, | Anglesey, | Exeter, |
| Compton, | Cardigan, | Salisbury, |
| Bruce, | Fran. Cestriens', | Hay, |
| Lechmere, | Dartmouth, | Aylesford, |
| Middleton, | W'ejon, | |

Die Veneris 3^o Maii, 1723.

Hodie 3^a vice lecta est Billa, entitled, An Act to inflict Pains and Penalties on George Kelly, alias Johnson.

Contents 79 The Question was put, whether this Bill
Not Cont. 48 shall pass?
It was resolved in the Affirmative.

Dissentient

1st, Because, we think, there is no Reason for the Legislature to pass a Law, *ex post facto*, to punish this Person for the treasonable Correspondence he is guilty of; he being in Custody, and may be brought to a legal Trial in one of the Courts of Justice.

2^{dly}, We conceive the Want or Defect of such clear and plain Evidence as, by the Laws of this Kingdom, is required to convict any Person of High-Treason, no sufficient Reason to warrant the Exercise of the Legislative Power in making a new Law for his Punishment, because such Laws being made for the Protection of innocent Persons from suffering by false, uncertain or doubtful Evidence, every Subject is intitled to the Benefit of those Laws, when he shall fall under an Accusation of High-Treason.

3^{dly}, Because, as we conceive, by the Rules of natural Justice Laws ought to be first made, as Directions for Mens Actions and Obedience, and Punishment inflicted for putting those Laws in Execution against Offenders; and that therefore punishing by a Law made after the Offence committed is not agreeable to Reason or Justice, except only in the Case of real and apparent Necessity to prevent the immediate Ruin of a Government, which we do not think to be the present Case, or can bear any Resemblance to it.

4^{thly}, Because the Proceedings of the Legislative Power, in making Laws, can be governed by no Rule but that of their own Discretion and Pleasure; and therefore the making Laws to inflict Pains and Penalties on particular Persons must, as we conceive, tend to expose the Lives, Liberties and Properties of the Subjects to an arbitrary Discretion; and consequently render them precarious in the Enjoyment of those Blessings, which by
our

our excellent Constitution and Government they have always had an uncontrollable Right to hold and enjoy, till forfeited for some Crime, and the Person offending legally convicted thereof, upon such full and positive Proof as the Laws of this Kingdom do require.

5thly, Because, as we conceive, it would be of dangerous Consequence to the Safety of innocent Persons to allow Copies of Letters taken by the Clerks of the Post-Office, though sworn by them to be true Copies, to be given in Evidence against any Person accused of High-Treason, especially when such Copies are not compared with the Originals after they were taken, and the original Letters forwarded on by them, and not produced, because the Originals not being produced, such Person is deprived of an Opportunity of falsifying those Copies; and though there should be any Mistake committed by the Clerk in copying, whether wilfully, or by Negligence, such Mistake cannot be detected for Want of the original Writings to compare the Copies with.

6thly, Because the Proof of Letters or other Writing in Criminal Prosecutions, by Similitude and Comparison of Hands, being, as we conceive, a very slight and weak Evidence, because Hands may be too easily counterfeited, and the Persons examined cannot speak positively, but to their Belief, and therefore not liable to be prosecuted for Perjury, hath, as we conceive, very justly been discouraged in such Times, when the Administration of Justice hath been most impartial; and Convictions of High-Treason, grounded on such Evidence, have been reversed, by Act of Parliament, for that and other Reasons.

*Pomfret,
Fr. Cesariens',
Strafford,
Middleton,
Avlesford,
Batburst,
Litchfield,
Weston,
Salisbury,
Brooke,
Hay,*

*Osborne,
Compton,
Bruce,
Trevor,
Cardigan,
Exeter,
Stawell,
Anglesey,
Gower,
Masbam,
Bingley.*

*Scarsdale,
Denbigh,
Wharton,
Northampton,
Craven,
Guilford.
Poulett,
Dartmouth,
Foley,
Montjoy,
Tadcaster,
Wil-*

*WitHoughby de Brooke, Uxbridge, Arundell.
Ashburnham, Berkeley of Str.*

Die Martis 7^o Maii, 1723.

After hearing Council and Witnesses for the Bill to inflict Pains and Penalties on *Francis Lord Bishop of Rochester*,

The Question was put, that it is the Opinion of this House, that it is inconsistent with the publick Safety as well as unnecessary for the Prisoner's Defence, to suffer any farther Inquiry to be made upon this Occasion into the Warrants which have been granted by the Secretaries of State for the stopping and opening of Letters which should come or go by the Post, or into the Methods that have been taken by the proper Officers at the *Post-Office*, in Obedience to such Warrants?

It was resolved in the Affirmative.

Dissentient

1st, We humbly apprehend that in all Criminal Prosecutions the Cross-examining of Witnesses is necessary for the Defence of the Prisoner, and for the Satisfaction of those who are to judge of the Facts alledged against him, in order to the discovering of Truth, and detecting any fraudulent Evidence which should be offered; and the Resolution above recited does, in our Opinions, debar the Bishop of *Rochester*, and every other Person concern'd, from asking any Questions of the Clerks of the *Post-Office*, who are brought as Witnesses to the Bar, relating to the stopping and opening the Post-Letters, though Letters pretended to be stopped and opened at the *Post-Office* are read as Evidence against the Prisoner; and we conceive, that the preventing any farther Inquiry on these Heads must lay this House under great Difficulties, when they come to form a Judgment on those Letters, the Validity of which will in a great measure depend on the Proof given of their having been truly stopped and opened as asserted.

2^{dly}, We apprehend it to be impossible for this House to determine, that the Inquiry which is desired is unnecessary to the Defence of the Prisoner, till he shall come to make the Application; and, we conceive, he should

have the Liberty of asking what Questions he or his Council think proper of the Clerks of the *Post-Office*, relating to the stopping and opening of Letters, without acquainting the House what Use he intends to make of their Answers; and this appears to us to be highly reasonable, essential to Justice, and warranted by the Methods which this House has hitherto allowed the Council for the Support of the Bill to proceed in, who have, during the whole Course of this Examination, reserved the Application of the Evidence they have offered till they should judge convenient to make it.

Norhampton,

Fair,

Astbury,

Litchfield,

Exeter,

Exeter,

Sturford,

Franc. Cestriens,

Uxbridge,

Dunbarton,

Stratford,

Poulton,

Compton,

Bruce,

Craven,

Bingley,

Pamfret,

Trevel,

Hay,

Wiston,

Wharton,

Willoughby de Broke,

Scarsdale,

Anglesey,

Bathurst,

Masham,

Osserne,

Gower,

Montjoy,

Cardigan,

Die Sabbati 11^o Maii, 1723.

After hearing Council further against the Bill to inflict Pains and Penalties on *Francis Lord Bishop of Rochester*, and the said Bishop in his own Defence,

The Question was put, that *George Kelly*, alias *Johnson*, now a Prisoner in the *Tower of London*, be brought to the Bar of this House on *Monday Morning* next, to be examined upon Oath on the Bill entitled, *An Act to inflict Pains and Penalties on Francis Lord Bishop of Rochester?*

It was resolved in the Negative.

Dissentient

1st, Because we think it unquestionable that the said *Kelly* is a competent legal Witness to the Matters charged by the Bill against the Bishop, and could not be legally refused to be sworn as such, if the Bishop were on his Trial for the same in the ordinary Course of Justice, and that, whether the said *Kelly* was produced either for or against the Bishop; and, we conceive, if the Council for the Bill had thought fit to have produced him in Support

port of the Bill, that even no legal Objection could have been made by the Bishop's Council against his being so produced and sworn, the Bill passed this House against the said *Kelly* not having received the Royal Assent, and there not being in the said Bill, in our Opinions, any thing that can destroy even his legal Testimony, when the same is passed into a Law.

2dly, Because the three Letters, dated the 20th of April, 1722, supposed to contain treasonable Correspondences with the *Prebender* and some of his Agents, have been made the principal Charge against the Bishop, and have been endeavoured to be proved to have been dictated to the said *Kelly* by the Bishop, at or about the Time of their Date; but this not being as yet done, as we think, by direct or positive Proof by any living Witness of the Fact, but by Circumstances only, we think it most proper, and most safe and just, to endeavour to discover the Truth of that material Fact, by the best Evidence the Nature of the Thing can admit of; and that this House should not be left under the Difficulties of judging on this extraordinary Occasion from doubtful Circumstances, if the Fact may be cleared by certain positive Proof, and the Examination of a competent and a living Witness upon Oath at the Bar of this House.

3dly, Because several living Witnesses having been examined on Oath at the Bar of the House, on behalf of the Bishop, in order to prove by their positive Testimony and other Circumstances, that the Bishop did not dictate or direct, or was any way privy to the Writing the said Letters, or any of them, which has, in our Judgments, render'd it of yet greater Importance, that the supposed Writer of those Letters should be brought under the most strict and solemn Examination before the Bill has passed this House.

4thly, Because the said *Kelly*, though examined before Committees of both Houses of Parliament, and elsewhere, hath not, to our Knowledge, been yet examined upon Oath to the Matters contained in this Bill; and it having appeared to us, in other Instances on this Occasion, particularly of Mrs. *Baker*, examined for the Bill, and of *Bingley* against it, who have materially varied their Examinations at the Bar of this House from

their former Examinations, at the same Time declaring their former Examinations were not taken and sworn to by them ; we think it may be both dangerous and derogatory to the Honour and Justice of the House, not to examine on Oath a Person capable of discovering the Matters of Fact, on which the Justice of the Bill against the Bishop must depend, and especially after the said *Kelly* hath declared in the most solemn Manner, next to that of his being upon Oath, that the Bishop did not dictate, or was privy to the Writing the said Letters, or any of them ; and the Bishop himself, in his Defence, having also, in the most solemn Manner of Affirmation, declared his Innocence in this Particular, and expressly referring to the former Affirmations of the said *Kelly*, as we conceive, as a Testimony in Confirmation of his own Affirmations.

Gibby, Because, we conceive, that the said *Kelly* was not only a legal Witness for or against the Bishop, in the strictest Construction of Courts of Judicature, but the Examination of him upon Oath, on this Bill, is in every respect whatsoever, in our Judgments, less liable to Objection than in any or most other Evidences, which on this Occasion have been allowed, because the Bill passed by this House against the said *Kelly*, if it obtains the Royal Assent, as is most probable, doth (in Judgment of Law, as hath been declared by the Judges) acquit him of any further Prosecution for the said Treasons therein charged upon him ; and there is no Judgment or Punishment inflicted upon him in the said Bill, which can, when passed, destroy his Capacity of giving Evidence on any Occasion ; and the same being passed by this House, and not passed the Royal Assent, leaves the said *Kelly*, in our Opinions, under less Influence either of Hopes or Fears, than such Witnesses which have been examined on this Occasion under Commitments and Charge of High-Treason ; and, as we conceive, less liable to that Objection than the Declaration of *Philip Neynes*, which has been read against the Bishop, though never signed or sworn to by him, and the said *Neynes*, some Months since, drowned in endeavouring his Escape, and which Declaration appears to us to have been made by him under the strongest Influences of Guilt and Terror.

Gibby,

6^{thly}, We think the Crimes charged in the Bill against the said *Kelly* are in their Nature distinct and independent on those charged upon the Bishop, *Kelly's* Guilt in writing the said treasonable Letters proved upon him being the same, though the Bishop be altogether innocent in relation thereto; for which Reasons, as we conceive, this House did refuse to permit *Kelly* on his Bill to give Evidence, that the Bishop did not dictate the said Letters; for which Reason, we are of Opinion, that the Evidence which *Kelly* might have given touching the Bishop's dictating the said Letters, or not, would have produced no Consequence at all, with regard to the Bill passed against himself, though it must necessarily have contributed to the Proof of the Guilt or Innocence of the Bishop.

7^{thly}, This House having, with great Honour and Justice, declared to several Persons produced as Witnesses on this Occasion, that it was not required from them to depose to any Thing which did or might tend to their own Accusation, the Testimony of the said *Kelly*, if he had been examined on Oath, we doubt not, would have been taken under the same just Indulgence; and if he had submitted to have been examined on Oath to the Matters of this Bill, such his Examination being in that respect voluntary could not, in our Opinions, have been construed as forced from him by the Authority of this House; and such Testimony as he might have given would have remained under the Consideration and Judgment of this House, as to its Credit and Influence, on all Circumstances, in the same Manner as the other Evidence for and against the Bill still does,

Cowper,
Lochnair,

Pemfret,

Bathurst,

Bingley,

Fr. Cestriens,

Compton,

Willoughby de Broke,

Weston,

Bruce,

Gower,

Brooke,

Middleton,

Denbigh,

Scarfsdale,

Dartmouth,

Salisbury,

Foley,

Masham,

Cardigan,

Litchfield,

Uxbridge,

Hay,

Strafford,

Northampton,

Anglesy,

Berkely of Stratton,

Poulett,

Asburnham,

Guilford,

Amicus
Scriba.

Impr.

C. 277.

Factor.

The Members 1st May, 1723.

That a Bill of Bill, entitled, An Act to in-
hibit the said and Penalties on Francis Lord Bishop of
Exeter

Question: The Question was put, whether this Bill
shall pass?

Not called.

It was received in the Affirmative.

The Question

A. In the Question which we thought lay a-
gainst the Bill of Penalties and Exemptions, that the Com-
mons in taking it, did not have an equal Share of
Influence with the Lords. does hold stronger, as we
are not against the present Bill, since by means of it
a Bill of Penalties is now put, read and adjudged to
Parliament in the House of Commons, and reduced to a
New Bill, under the name of a Declaration, and is undenied
in the House of Commons, and as we are not
denying from its own Honour, and that of
the House of Commons, by answering and making his De-
claration in the House of Commons of Parliament.

Ad. In the House of Commons, that the Commons
shall not be in the House of Commons, any Part
of their Power and Privileges which are properly theirs
in the House of Commons, in any Form or under any Pretext
whatever, and it seems to us full as reasonable, that
the House of Commons be as generous of the Rights and Pri-
vileges which remain to them as the Commons are on
their Part.

Ad. We think this Bill, against a Lord of Parlia-
ment, taking its Rise in the House of Commons, ought
the rather not to have received any Countenance in this
House, for that, as it appeared to us by the printed
Votes of the House of Commons, that House had voted
the Bishop guilty of all the Matters alledged against him
in the Bill, before the Bill was brought into that House,
and consequently before the Bishop had any Opportunity
of being heard; and although there be nothing absurd
in passing such a Vote in order to their accusing by an Im-
peachment, yet it seems to us absolutely contrary to Ju-
stice,

stice, which ought to be unprejudiced, to vote any one guilty against whom they design to proceed in their Legislative Capacity, or in the Nature of Judges, before the Party has an Opportunity to be heard on the Bill which is to ascertain the Accusation, or it is so much as brought in.

4^{thly}, We are of Opinion, that no Law ought to be passed on purpose to enact, that any one be guilty in Law, and punished as such, but where such an extraordinary Proceeding is evidently necessary for the Preservation of the State; whereas the Crime offered to be proved against the Bishop of *Rocheſter* is, as we apprehend, his partaking in a traiterous Conspiracy against the Government; which Conspiracy (by God's Blessing) is detected, and, as we hope, disappointed, without the Aid of such dangerous Proceeding as we conceive this to be.

5^{thly}, Because there are certain known and established Rules of Evidence, which are Part of the Law of the Land, either introduced by Acts of Parliament, or framed by Reason and the Experience of Ages, adjusted as well for the Defence of the Life, Liberty, and Property of the Subject, as the Punishment of the Guilty; and therefore these Rules are, or ought to be, constantly adhered to, in all Courts of Justice; and, as we conceive, should be also observed, till altered by Law in both Houses of Parliament, whenever they try, judge and punish the Subject, tho' in their Legislative Capacity: But since, in many Instances, in this and the two other Proceedings by Bill, we have been taught the Opinion of the House, that these Rules of Evidence need not be observed by the Houses acting in their Legislative Capacity, we clearly take it to be a very strong Objection to this Manner of Proceeding, that Rules of Law made for the Security of the Subject are of no Use to him in it; and that the Conclusion from hence is very strong, that therefore it ought not to be taken up, but where clearly necessary, as before affirm'd; and we desire to explain ourselves so far upon the Cases of Necessity excepted, as to say, we do not intend to include a Necessity arising purely from an Impossibility of convicting any other way.

6thly, If it be admitted, that traitorous Correspondence in Cyphers and Cant-Words may, to a degree, be discouraged by this Sort of Proceeding, in which Persons, as we think, are convicted, on a more uncertain Evidence than the known Rules of Law admit of, yet, we are of Opinion, that Convenience will be much more than out-weighed by the Jealousy it must of necessity, as we conceive, create in the Minds of many of his Majesty's most faithful Subjects, that their Lives, Liberties and Properties are not so safe, after such repeated Examples, as they were before; and by the natural Consequence of this Apprehension, an Abatement of their Zeal for the Government may ensue, excepting such Persons as have had more than ordinary Opportunities of being well instructed in Principles of the utmost Duty and Loyalty.

7thly, We cannot be for the passing this Bill, because the Evidence produced to make good the Recital of it, or that the Lord Bishop of *Rocheſter* is guilty of the Matter he therein stands accused of, is, in our Opinion, greatly defective and insufficient, both in Law and Reason, to prove that Charge; the Evidence consisting altogether, to the best of our Observation, in Conjectures arising from Circumstances in the intercepted Letters, or on a Comparison of Hand-writings, resting on Memory only, and there being, as we think, no Proof of the Bishop's knowing of, or being privy to any of the said Correspondence; and as to the principal Part of the Charge against the Bishop, and on which, as we think, all the rest does depend, *viz.* the dictating the Letters of the 20th of *April*, 1722, which the *House of Lords* seem to have determined that *Kelly* wrote, we are of Opinion, that the Bishop has in his Defence very clearly and fully proved, that he did not, nor possibly could, dictate those Letters, or the Substance of any Part of them, to *Kelly*, either on the Day of their Date, or at any Time during several Days next before or next after the Day of their Date, nor was in any Capacity to write them himself, tho' the Letters must have been wrote within that Compass of Time; and we are, on the whole, of Opinion, that the Proof and Probability of the

the Lord Bishop of *Rochester's* Innocence, in the Matters he stood charged with, were much stronger than those of Guilt.

| | | |
|--------------------|------------------------------|------------------------|
| <i>Scarsdale,</i> | <i>Willoughby de Breke,</i> | <i>Cardigan,</i> |
| <i>Bruce,</i> | <i>Pomfret,</i> | <i>Fran. Cefriant,</i> |
| <i>Salisbury,</i> | <i>Hereford,</i> | <i>Anglesey,</i> |
| <i>Poulett,</i> | <i>Bingley,</i> | <i>Litchfield,</i> |
| <i>Dartmouth,</i> | <i>Osborne,</i> | <i>Foley,</i> |
| <i>Craven,</i> | <i>Gower,</i> | <i>Hei.</i> |
| <i>Aylesford,</i> | <i>Guilford,</i> | <i>Treva,</i> |
| <i>Ashburnham,</i> | <i>Gower,</i> | <i>Exbridge,</i> |
| <i>Bathurst,</i> | <i>Strafford,</i> | <i>Gamp,</i> |
| <i>Weston,</i> | <i>Danbigh,</i> | <i>Mabers,</i> |
| <i>Arundell,</i> | <i>Northampton,</i> | <i>Middleton,</i> |
| <i>Exeter,</i> | <i>Montjoy.</i> | <i>Brooke,</i> |
| <i>Oxford and</i> | <i>Berkeley of Stratton,</i> | <i>Stowell.</i> |
| <i>Mortimer,</i> | | |

I dissent from the sixth and seventh Reasons of the foregoing Protestation, and for the following Reasons:

1st, Because this extraordinary Method of proceeding by Bills of this Nature against Persons who do not withdraw from Justice, but are willing to undergo a legal Trial, ought, in my Opinion, to be supported by clear and convincing Evidence; and, I apprehend, there has been nothing offered to support the Allegations set forth in the Preamble of the Bill to inflict Pains and Penalties on *Francis* Lord Bishop of *Rochester* but what depends on decyphered Letters, forced Constructions, and improbable Inuendo's.

2^{dly}, I conceive, that the Examination of *Philip Neynoe* taken before the Lords of the Council, not sworn to, nor signed, which appears to me to be the Foundation on which the Charge against the Bishop of *Rochester* is built, has been, in my Apprehension, sufficiently proved, by the positive Oaths of three Persons, two of which have been for several Months in separate Custodies, confirmed by other Circumstances, to have been a false and malicious Contrivance of the said *Neynoe*, to save himself from the Hands of Justice, and to work the Destruction of the Bishop of *Rochester*.

3dly, I do not apprehend, that the Letters of the 20th. of *April*, which are suggested to be wrote by *George Kelly*, alias *Johnson*, and dictated by the Bishop, have been sufficiently proved to be the Hand-writing of the said *Kelly*; but, on the contrary, it appears, to the best of my Judgment, that the Letter of the 20th of *August* (stopt at the Post-Office, and from which the Clerks of the Post-Office, on their Memory only, swear they believe the said Letters of the 20th of *April* to be the same Hand-writing, tho' they never compared two original Letters together during all that Time) has been proved by three credible Witnesses, concurring in every Circumstance of their Testimony, and well acquainted with the Hand-writing of the said *Kelly*, not to be his Hand-writing; and, I conceive, that the Difference they observed in the Hand of the said *Kelly*, upon which they ground their Opinions, is sufficiently supported, by comparing the said Letter of the 20th of *August* with the Letters wrote by the said *Kelly* to the Lord *Townshend* and Mr. *Delafaye* during the Time of his Confinement.

4thly, I do not apprehend, that any Proof has been offered to support what has been so much insisted on, and justly esteemed essential to the Charge, that the Bishop of *Rockester* dictated the Letters of the 20th of *April*; but it has appeared, I conceive, that there has been no Intimacy between the Bishop and the said *Kelly*; and the Testimony of the Bishop's Servants concurring with the Evidence given on that Head by the Persons that *Kelly* lived in the strictest Correspondence with, leaves, to the best of my Judgment, no room to doubt, but that the Acquaintance between them was slender and publick; and to suggest from thence, that the Bishop dictated the Letters of the 20th of *April*, when it appeared that for many Days before he could not possibly see the said *Kelly*, is, in my Opinion, repugnant to Reason, and contrary to Justice.

Wharton.

Die Lune 16^o Martii, 1723.

Hodie 3a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

The

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentients'

1st, Because the keeping on Foot a greater Army in time of Peace, tho' by Consent of Parliament, then is absolutely necessary for the Security of his Majesty's Person and Government, is, we conceive, very dangerous to our happy Constitution; and we cannot but apprehend, the Number of Men allowed by this Bill to be much greater than is necessary for that End.

2^{dly}, Because the Conspiracy mentioned in his Majesty's Speech at the opening of the last Session of Parliament, which was the Occasion of an Addition of about four thousand Men, is now at an end; and therefore the Cause of raising that additional Number being perfectly removed, there does not appear to us the least Colour of Reason for continuing of that Number.

3^{dly}, Because, as we conceive, the continuing so great a Number of Men, this Year, will be a Precedent of too great Weight for continuing the same Number of Troops in Perpetuity; for we cannot, with any Possibility, foresee or expect that, in any future Time, there will be less Reason to be given, than at present, for justifying the Necessity of keeping up so great an Army; there being at this Time, in our Opinion, as little Danger to our present happy Establishment, to be feared either from Insurrections at home, or by any Disturbance or Invasion from abroad, as the Nature and Instability of human Affairs will well allow of; and we cannot think, the Fears of remote or imaginary Dangers a sufficient Argument for so great a present Mischief as such an Army must bring upon the Kingdom, not only from the great Charge and Expence of maintaining them, when we are involved in so great a Debt, but also from the Jealousies which may from thence arise in the Minds of many of his Majesty's good Subjects of their Liberties thereby being endangered; and we cannot but be apprehensive, that if so numerous an Army be agreed to in Parliament for some time longer, no Argument can hereafter be urged for reducing the Number in any future Reign, but what will seem to carry with it too great a Distrust of the Prince then in Possession of the Throne.

and

and will be thought to imply, that the same Trust and Confidence is not to be reposed in him as in his Predecessors; and this may discourage some Persons hereafter from giving their Advice to the Crown, upon this most important Subject, with that perfect Freedom which ought ever to maintain and exert itself in the Debates and Resolutions of this great Council.

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|-------------------|------------------------|------------------------|
| <i>W. Ebor,</i> | <i>Weston,</i> | <i>Litchfield,</i> |
| <i>Strafford,</i> | <i>Aylesford,</i> | <i>North and Grey,</i> |
| <i>Treuer,</i> | <i>Bristol,</i> | <i>Boyle,</i> |
| <i>Foley,</i> | <i>Bingley,</i> | <i>Gower,</i> |
| <i>Compton,</i> | <i>Scarsdale,</i> | <i>Montjoy,</i> |
| <i>Barburs,</i> | <i>Fra. Cestriens,</i> | <i>Uxbridge.</i> |
| <i>Wharton,</i> | <i>Guilford,</i> | |

Die Jovis 18^o Martii, 1724.

Hodie 3^a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters,

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative,

Dissentient:

For the Reasons enter'd in the Journals the 24th of February 1717, the 21st of December 1721, the 16th of February 1722, and the 16th of March 1723; which, we conceive, are much stronger against continuing the present Number of Forces, when Peace abroad, and Tranquillity at home, are avowedly established on as solid and lasting a Foundation as the Nature of human Affairs will admit.

| | | |
|-------------------|-----------------|------------------------|
| <i>Scarsdale,</i> | <i>Wharton,</i> | <i>Strafford,</i> |
| <i>Bingley,</i> | <i>Montjoy,</i> | <i>Fra. Cestriens,</i> |
| <i>Abburnham,</i> | <i>Boyle,</i> | <i>Litchfield,</i> |
| <i>Compton,</i> | <i>Foley,</i> | <i>Barburs.</i> |

Die Martis 13^o Aprilis, 1725.

A Bill for regulating Elections within the City of London, and for preserving the Peace, good Order and Government of the said City, being read the third Time,

It was proposed to ask the Opinion of the Judges, whether this Bill does repeal any of the Prescriptions, Privileges, Customs, or Liberties of the City of London,

restored to them, or preserved by the Act passed in the second Year of King *William* and Queen *Mary*, for reversing the Judgment in a *Quo Warranto*, against the City of *London*, and for restoring the said City to its ancient Rights and Privileges?

Which being objected to, and Debate had thereupon, The Question was put, whether the
 Contents 24 Judges shall deliver their Opinions upon
 Not Cont. 38 on the said proposed Question?
 It was resolved in the Negative.

Dissentient.

1st, Because it being enacted and declared by the Act mentioned in the Question, That the Mayor, Commonalty, and Citizens of *London*, shall for ever hereafter remain, continue, and be, and prescribed to be, a Body-Corporate, *in re facto & nomine*, by the Name of Mayor, and Commonalty and Citizens of the City of *London*, and shall (as by Law they ought) peaceably enjoy all and every their Rights, Gifts, Charters, Grants, Liberties, Privileges, Franchises, Customs, Usages, Constitutions, Prescriptions, Immunities, Markets, Duties, Tolls, Lands, Tenements, Estates, and Hereditaments whatsoever, which they had (or had a Right, Title or Interest in or to) at the Time of giving the said Judgment; and we being apprehensive, that the Alterations made by this Bill in the Constitution of the Common-Council, and other ancient Rights, Franchises, and Prescriptions of the City, may utterly abolish the ancient legal Title of the City to their Rights, Franchises, Prescriptions, and Constitutions in the Particulars contained in the said Bill; and may, in Consequence thereof, work a total Change of the whole ancient Constitution of the Corporation of the said City, or greatly confound or prejudice the same, which has stood for so many Ages upon the Foundation of its ancient Title, Rights, and Prescriptions, confirmed by many Grants made by his Majesty's Royal Progenitors, and by many Acts of Parliament; all which were restored so soon after the happy and glorious Revolution, and which have been peaceably enjoyed to the present Time: We are of Opinion, that the Solution of the said Question, by the Judges, must have tended greatly to the necessary Information of

of the House, and to their better Judgment, upon a Bill of so great Importance, as well as to the Satisfaction and Quiet of the Citizens of *London*, who, so far as we can collect from the Petitions against the Bill, are greatly alarmed at the Consequence thereof; and we are of Opinion, that it was the more necessary, and the more consistent with the Wisdom of this House, to be informed of the Law, by the Judges, upon the Question proposed, because we don't find in this Bill any Saving or Confirmation of any of the ancient Titles, Rights, Prescriptions, Privileges, or Franchises of the said City, restored to them by the former Law.

2dly, We think the Question ought to have been proposed to the Judges, the rather because the Opinions of several Council were admitted to be read, at the Bar of the Committee of the whole House, in Favour of the said Bill.

| | | |
|-----------------------------|-------------------|------------------------|
| <i>Bathurst,</i> | <i>Bingley,</i> | <i>Gower,</i> |
| <i>Lechmere,</i> | <i>Strafford,</i> | <i>Litchfield,</i> |
| <i>Coventry,</i> | <i>Abingdon,</i> | <i>Montjoy,</i> |
| <i>Wharton,</i> | <i>Bruce,</i> | <i>Arundell,</i> |
| <i>St. John de Blasfay,</i> | <i>Foley,</i> | <i>Era. Cestriens.</i> |
| <i>Bristol,</i> | | |

Then after long Debate,

Contents 79 The Question was put, whether this Bill,
Not Cont. 27 with the Amendments, shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because we apprehend, that the Penalty of two Hundred Pounds upon the Officer presiding at Wardmote-Elections, as well as at Elections even for Members of Parliament, is so small, that it may be construed into an Indemnification, and be looked upon rather as an Encouragement than a Restraint by a wealthy, partial and arbitrary Officer; at least, we are of Opinion, that such a one will not be sufficiently deterred by it from returning such Candidates as he likes, rather than such as the City chooses; and if ever that melancholy Case should happen, we fear neither the Candidates nor Voters will be able to find an effectual Method of doing Justice for so flagrant an Injury, either to themselves or to the Nation.

2dly, Because we cannot but think, from the Evidence given at the Bar, that this Bill will take away from

from many Citizens their Right of voting in Wardmote-Elections, by giving an Exclusion to all that inhabit Houses under ten Pounds a Year, even tho' they pay all Parish-Duties, or thirty Shillings in Lieu of them; which we conceive an unjustifiable Hardship upon those who may have long enjoyed that Right, and have had no Crime objected to them, much less proved, as we think it ought to be, before they can justly be deprived of it.

3dly, Because, by this Bill, no Act is to pass in Common-Council for the future, except what relates to the Nomination of some few Officers, without the Assent of the major Part of the Mayor and Aldermen present in such Common-Council; which, we conceive, will give too great an Addition of Power to the Mayor and Aldermen, who have already many and large Prerogatives incontestably allowed them by the Commonalty of the City; and tho' the Council for the Bill insisted that the Mayor and Aldermen had anciently that Right: which this Bill establishes, yet the Proof of that Right appeared to us so remote and obscure, that we own ourselves too short-sighted to discern it; and on the other Side it appeared plain to us, that even from the Time of incorporating the City to this present Time, such a Claim has very seldom been made, and that it has never been acknowledged; and therefore, we conceive, if there be any Foundation for such a Right, which we are far from thinking there is, the Dispute should be decided first in the inferior Courts of Justice, and rather determined in *the House of Lords* upon an Appeal, than ended by an Act of Parliament; which seems to us such a Method of determining Controversies of this Nature, as may prove of the most dangerous Consequence to the Rights and Properties of all the Subjects of *Great-Britain*.

4thly, Because this Bill abolishes the Custom relating to the Distribution of the personal Estates of Free-Citizens; which is a Custom not only of great Antiquity but seems to us to be wisely calculated for the Benefit of a Trading-City, and has been acquiesced under for so many Years, without the least Complaint of any one Free-Citizen that we ever heard of; that the Taking it away in this Manner can not but appear to us too rash and precipitate, and may too probably, in our Opinion, be
very

very detrimental to the true Interest of this ancient, populous, loyal, and hitherto flourishing City, the Preservation of whose good Order and Government the Bill itself very justly and judicially allows to be of the greatest Consequence to the whole Kingdom.

*Scarsdale,
Strafford,
Bristol,
St. John de Bletses,
Boyle,
Bathurst,
Bingley,
Berkeley of Stratton,*

*Campton,
Beuce,
Craven,
Westen,
Montjoy,
Foley,
Exeter,*

*Wharton,
Fran. Cestriens,
Arundell,
Abingdon,
Litchfield,
Gower,
Uxbridge.*

For the foregoing Reasons and these that follow, *viz.*

1st, Because we are of Opinion, that the several great Alterations made by this Bill in the ancient Constitution of the Common-Council, and other the Rights, Franchises and Prescriptions of the City of *London*, will, if passed into a Law, entirely subvert and destroy the ancient Title which the City at this Time lawfully claims, and has, thereto; and will introduce and enact a new Constitution upon the City hereafter to be claimed and enjoyed, not upon the Foundation of their ancient Title, but of this Act of Parliament; which must, as we conceive, in all future Times, whenever the City of *London* may have Occasion to assert or defend their ancient Title and Franchises, bring them under insuperable Difficulties, and may be followed with dangerous Consequences concerning the very Being and Constitution of the Corporation, many of which it is impossible to foresee or enumerate.

2^{dly}, We are of Opinion, that the new Constitution of the Common-Council enacted by this Bill, whereby a Negative is declared and given to the Mayor and Aldermen, not only in the making of By-Laws for the Government of the City, but in other Acts concerning the Issuing and Disposal of the Treasure of the City, and also of the Seal of the City, whereby their Lands and other Estates are subjected to the said Negative, and in all other Acts and Powers at this Time, as we conceive, belonging to the Common-Council, excepting only the Appointment of some few Officers mentioned in the Bill,

is a dangerous Innovation upon the City, unsupported by any Evidence offered at the Bar, of the ancient Constitution, and though in late Times mentioned to be claimed, yet contrary, as we conceive, to a clear uninterrupted and convincing Proof of the Exercise of the Powers and Authorities of the Common-Council in all Ages, to the 29th of *January* 1723; and we conceive the Alteration made by the Bill in this Respect to be the more unwarrantable, because the written Evidence offered to support the Claim of a Negative by the Mayor and Aldermen was either conceived in general Terms unapplicable to that Claim and not maintained by subsequent Practice, or was drawn from Proceedings in Times of Trouble and Confusion.

3dly, We are of Opinion, that the extraordinary Power, given by this Bill to the Mayor and Aldermen, will vest in them new exorbitant Authorities over all the Citizens, their Rights, Liberties and Franchises of all Kinds, inconsistent with that Ballance of Power in the City, by which the same have been preserved, and in the future Exercise thereof must, as we conceive, lay the Foundation of constant and lasting Disputes, Divisions and Distractions in the City of *London*.

4thly, We think this Bill is the more dangerous, because it creates a new Constitution in several Particulars contained in it, not framed upon the antient Rights proved or pretended to, or disputed on either Side, but is a new Model without due Regard to the antecedent Rights as claimed by either Side, and will deprive a great Number of Citizens of their antient Rights and Franchises in Elections and otherwise, without leaving them any Opportunity of asserting the same by due Course of Law, and is a Precedent of the most dangerous Consequence to all the Cities and Corporations of this Kingdom.

5thly, We are of Opinion, that the Abolition of the antient Custom of the City touching the personal Estates of Freemen is a dangerous Innovation tending to let in to the Government of the City Persons unexperienced and unpractised in the laudable and beneficial Trade of the City and Kingdom, and unfit for the Magistracy of the City, and may thereby introduce improper and pernicious

nicious Influences over the Citizens ; and we think that the Strength, Riches, Power and Safety of the City of *London* have been hitherto, in a great Measure, supported by this and other Customs of the City, as the Walls thereof; and we fear, that the Decay of Trade, and with that, of the Grandeur of the City of *London*, and the Diminution and Loss of the great Excises and Duties arising from the Trade of the City, on which the Support of his Majesty's Government so much depends, may be the Consequence of the Abolition of this antient Custom and Privilege of the Freemen of the City of *London*.

6thly, Because we are of Opinion, that the Petition of the many thousand Freemen of the City against this Bill ought to be a far greater Weight against this Bill, than the Petition of fifteen Aldermen for it ; and that the Confusion which may arise from this Bill, if passed into a Law, may tend greatly to the future Disturbance of his Majesty's wise and gentle Government.

Wharton, Strafford, Coventry.

Die Lunæ 19^o Aprilis, 1725.

Hodie 3^a vice lecta est Billa, entitled, An Act for redeeming the Annuities of twenty-five thousand Pounds *per Annum* charged on the Civil-List Revenues by an Act of the seventh Year of his Majesty's Reign, and for discharging the Debts and Arrears due from his Majesty to his Servants, Tradesmen, and others.

The Question was put, whether this Bill shall pass ?

It was resolved in the Affirmative.

Dissentient

Because this Bill is to raise a great Sum of Money, which will, as we apprehend, become a Burthen upon the Publick, and increase that immense Load of Debt, which is already above fifty Millions, and therefore, in our Opinions, require the utmost Application to diminish it, and cannot but give us the most melancholy Prospect, whenever, especially in a Time of Peace and Tranquility, we find any Addition is made to it ; and since his Majesty's Revenue, when first settled, was thought sufficient by the Parliament to answer all the necessary Expences of his Civil Government, and is larger, as we conceive,

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than that of his Predecessors; and since that Revenue has once already, and not long ago, received an Aid of the like Sum, we think we were fully justified in expecting an Account of the Reasons of contracting so great a Debt; and because that was refused to be laid before us, we are of Opinion, we cannot discharge our Duty to our Country, if we should thus uninformed, and in the Dark, give our Consent to this Bill, which being the second of this Kind within a short Compass of Time we apprehend may prove of the more pernicious Example.

Strafford, Bruce, Boyle.

Die Lunæ 26^o Aprilis, 1725.

The Commons having brought up a Replication to the Answer of *Thomas Earl of Macclesfield* to their Articles of Impeachment against him,

A Question was proposed and stated for appointing his Lordship's Trial on *Thursday* sevensight at the Bar of the House.

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And, the Question being put, whether those Words [at the Bar of the House] shall stand Part of the Question?

It was resolved in the Affirmative.

Dissentients

1st, Because we are of Opinion, that it highly concerns the Honour and Dignity of this House, in all Cases of Impeachments, that the Trial should be had in the most publick and solemn Manner, that being most suitable to the Laws and Constitutions of this Kingdom in all Cases whatsoever, but is more especially requisite in a Prosecution of the Commons of *Great-Britain* begun and carried on by their Representatives in Parliament; for which Reasons we think, that this Trial ought to be had in *Westminster-Hall*, and not at the Bar of this House, where it is impossible, as we conceive, to provide Room and other Conveniencies for the Attendance of *the House of Commons*, and such others of the Subjects of this Kingdom who may be desirous to be present at this Trial.

2^{dly}, We are of Opinion, that it is a Justice due to the Earl who is impeached, to give him the Opportunity of vindicating himself and to assert his Innocence in the most publick Manner imaginable, the Crimes wherewith

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he is charged by this Impeachment being of that Nature as render it, as we conceive, most desirable, and even necessary on his Part, to give universal Satisfaction of his Innocence in a Case wherein his Honour, and that of his Posterity, are so highly concerned.

3dly, We are of Opinion, that it is of great Moment to the Honour and Dignity of the Crown, the Fountain of Justice, that the Trial of this Impeachment should be had in that Place which may be most satisfactory to the whole Nation, because the Articles, whereby the Earl stands impeached, relate to the Administration of the Publick Justice of the Kingdom, and consists of Facts and Matters charged on him whilst he was Lord High Chancellor, and as such was intrusted by his Majesty with the Execution of the most eminent Office and Station concerning the Administration of Justice.

4thly, Because we observe that the Earl impeached has, in his Defence, by his Answer, in some Degree involved the Honour of many great Personages, Peers of this Realm, and others, some living, and others long since deceased, but whose Descendants are now Peers and Members of this House, in the Consideration of the Matters and Crimes charged on himself; which Circumstance of the Defence being, as it seems to us, in the Opinion of the Earl, material to be examined into upon the Trial, we are of Opinion, that in this Respect also, the Place of Trial is become of more Importance and most proper to be in *Westminster-Hall*, and not at the Bar of this House, where the Examinations must unavoidably, as we conceive, be less publick, and in that Respect less satisfactory.

5thly, It appearing to us by several Reports delivered to this House by his Majesty's Direction, which relate to the Administration of the Justice of the High Court of *Chancery*, whilst the said Earl was Lord Chancellor, That there are very great Deficiencies of the Money and Effects belonging to Orphans and Widows, and others the Suitors of the Court; which Money and Effects were brought into the Court, or into the Hands of the Masters in *Chancery*; and which Deficiencies, as they appear to us, amount to a great many thousand Pounds, as yet wholly unsatisfied and unsecured; for this Reason, we

are of Opinion that it is necessary for the Publick Satisfaction, and particularly of the Suitors concerned, that his Trial should be had, not only in the most solemn Manner, but in the most publick Place also.

6thly, We do not find, that any Impeachment of the Commons has been tried at the Bar of this House, or in any other Place than in *Westminster-Hall*, since the Restoration of King *Charles the Second*, and before that Period, the Impeachment of the Earl of *Strafford* was tried in *Westminster-Hall*; we find also that, since the Restoration, every Peer which has been tried by this House either upon an Impeachment or an Indictment, has had his Trial in *Westminster-Hall*, and not at the Bar of this House; and some Time after the late Revolution, private Persons impeached by the Commons, for Frauds and Cheats relating to the *Lutstring Company*, and private Traffick, were appointed by this House to be tried in *Westminster-Hall*; the Impeachment of *Dr. Sacheverell*, for Misdemeanors committed in the Pulpit, was tried there also; for which Reasons, we are of Opinion, that this Impeachment being, as we conceive, of the highest Consequence to the Honour of the Crown and Kingdom, ought to be considered, at least with equal Regard as to the Place of Trial, and in every other Respect with any of those Trials before-mentioned; and the rather, for that the Method of Proceedings on Trials of Impeachments, if had at the Bar of this House, contrary to the general Course since the Restoration, are therefore more unsettled by any late Precedents, and in that Respect may be liable to more Difficulties and Delays than if had in *Westminster-Hall*.

7thly, We think that no Consideration of Delay which may be occasioned for a little Time by the Preparations to be made in *Westminster-Hall*, or any other Account during the Trial, are an equivalent Consideration or to be ballanced with the Publick Satisfaction, which in every Respect is, in our Opinion, due to this Proceeding, and especially with Regard to the Place of Trial.

Wharton,

Strafford,

Lechmere,

Scarsdale,

Gower,

Coventry.

Boyle,

Foley.

I dissent for all the aforementioned Reasons, except the Fourth.

Montjoy.

Die Lune 3^o Maii, 1725.

Hodie 3^a vice lecta est Billa, entitled, An Act for more effectually disarming the *Highlanders*, in that Part of *Great-Britain* called *Scotland*, and for the better securing the Peace and Quiet of that Part of the Kingdom.

The Question was put, whether this Bill with the Amendments shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the Bill sets forth, that many Persons in the *Highlands* commit many Robberies and Depredations, and oppose the due Execution of Justice against Robbers, Outlaws, and Persons attainted; which Assertion, we conceive, was meant as an Inducement to pass the Bill, and therefore should have been fully made out by Proof, or have been undeniably clear from its Notoriety; but no Proof was attempted to be made of it; and we have not heard that such Outrages, as are charged upon the *Highlanders*, have been committed by them of late.

2^{dly}, We apprehend that this Bill gives to Lords Lieutenants of Counties, Justices of the Peace, and others, such large and discretionary Powers, in some Cases, as are hardly to be trusted in the Hands of any Persons in a free Government, unless apparently necessary to the Preservation of it.

3^{dly}, Since the Behaviour of the *Highlanders* has been peaceable and inoffensive for some Years past, and is so at present, as far as appears to us; we cannot but fear this Bill may prove unreasonable, may hazard the Loss of that invaluable Blessing which we now enjoy, a perfect Calm and Tranquility, and raise amongst these People that Spirit of Discontent and Uneasiness which now seems intirely laid; for we apprehend that the Execution of some Authorities in this Bill is more likely to create, than to prevent Disorders; we think it applies severe Remedies where, as far as we can perceive, there is no Disease, and this at a Time when the *Highlanders* are not being accused of any Enormities, for which, in our Op-

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nion, the Legislature ought in Justice to punish them, or in Prudence to fear them, we think it would become us, as good Patriots, to endeavour rather to keep them quiet, than to make them so.

Wharton, Scarfsdale, Litchfield.
Gower, Boyle,

Die Sabbati 22^o Maii, 1725.

Report being made from the Committee of the whole House, on the Bill for enabling *Henry St. John*, late Viscount *Bolingbroke*, and his Heirs Male, notwithstanding his Attainder, to enjoy several Estates, according to such Interests as are limited in a certain Indenture, and other Assurances therein mentioned, and for other Purposes, That the Committæ had made some Progress in the Bill.

The Question was put whether the House shall be put into a Committee again upon the said Bill on *Monday* next at ten o'Clock in the Forenoon?

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It was resolv'd in the Affirmative.

Dissentient'

1st, Because we apprehend it to be inconsistent with the Honour and Dignity, which in all Cases should be observed in the Proceedings of this House, to make a Resolution, especially upon Debate, to put the House into a Committee on this Bill, at the same Instant or Moment of Time on which, by an Order of the twenty-first Instant, it was resolved, that the House would further proceed on the Impeachment of the Earl of *Marblesfield*; and it does not appear to us, that any Precedent is to be found on the Journals of this House, to warrant this Resolution in that respect.

2^{dly}, We conceive, that this Resolution may draw on a Debate or Doubt in the House, touching the Preference to be given by the House to the further Progress on this Bill, or to the further Proceeding on the said Impeachment; which Debate, if any such should happen, we think, may be attended with ill Consequences; the Matter of the said Impeachment so pressing and necessary, in our Opinions, to the publick Justice of the Nation, being compared with this Bill, which contains, as we think, extraordinary and undeserved Bounty and Re-ward

ward to a Person impeached by the Commons, and as yet attainted for Treasons which tended to the Overthrow of the Protestant Succession to the Crown of these Realms, and placing the *Pretender* on the Throne.

Warrington, Coventry, Lechmere.

Die Lune 24^o Maii, 1725.

Hodie 3^a vice lecta est Billa, entitled, an Act for enabling *Henry St. John*, late Viscount *Bolingbroke*, and the Male Heirs of his Body, notwithstanding his Attainder, to take and enjoy several Manors, Lands, and Hereditaments in the Counties of *Wills*, *Surrey*, and *Middlesex*, according to such Estates and Interests as to him or them are limited thereof by the *Quinquapartite Indenture*, and other Assurances therein mentioned, and for limiting the same, in default of Issue-Male of the Body of the said late Viscount *Bolingbroke*, to the other Sons of *Henry* Viscount *St. John* successively in Tail-Male, and for other Purposes therein expressed.

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Not Cont. 25

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the Purport and Intention of this Bill is to repeal several Acts of Parliament passed since his Majesty's Accession, whereby all the Estate and Interest of the late Lord *Bolingbroke*, in the Hands mentioned in this Bill, being forfeited to the Crown for High-Treason, were vested in Trustees, and still remain appropriated to the Use and Benefit of the Publick; the Value of which Lands amount, as we believe, to several thousand Pounds *per Annum*; we therefore think it unjust to all the Subjects of this Kingdom, who have borne many heavy Taxes, occasioned, as we believe, its great Measure, by the Treasons committed, and the Rebellion which was encouraged by this Person, to take from the Publick the Benefit of his Forfeiture.

2^{dly}, It appears from the Articles of Impeachment exhibited by the Commons against the late Lord *Bolingbroke*, whereon he now stands attainted by Act of Parliament, that he stood charged with the Commission of several Treasons of the most flagrant and dangerous Nature

ture, committed by him whilst he was *Secretary of State* to her late Majesty Queen *Anne*, for traiterously betraying her most secret Councils to the King of *France*, then at War and in Enmity with her Majesty, and with other Treasons tending to destroy the Ballance of *Europe*, and to raise the then exorbitant Power of the *French* King, who not long before had publickly acknowledged the *Pretender* to be the lawful and rightful King of these Realms.

3dly, The Treasons wherewith he was charged, we conceive, were fully confessed by his Flight from the Justice of Parliament; but his Guilt was afterwards, as we think, indisputably demonstrated by the new Treasons he openly and avowedly committed against his present Majesty; it being notorious, and it having been declared to the House on the Debate of this Bill, that he did, soon after his Flight, enter publickly into the Councils and Services of the *Pretender*, who was then fomenting and carrying on a Rebellion within these Kingdoms for the dethroning his Majesty, into which Rebellion many of his Majesty's Subjects, as well Peers as Commoners, were drawn, as we believe, by the Example or Influence of the late Lord *Bolingbroke*, and for which Reason many Peers and Commoners have since been attainted, and some of them executed, and their Estates both real and personal become forfeited by their Attainders, and as yet continue under those Forfeitures.

4thly, We have not been informed of any particular publick Services which this Person hath performed to his Majesty or this Nation, since his Commission of the many high and dangerous Treasons beforementioned, and in Case he has done any, they must be of such a Nature as ought, in our Opinions, to be rewarded in another Manner than is provided by this Bill, and for which, we think, the Crown is otherwise sufficiently enabled, and the Sincerity of his having quitted the Interest of the *Pretender* may, in our Opinions, be justly suspected, he never having, as appears to us, throughout the Progress of this Bill in both Houses, once signified his Sorrow for the Treasons he had committed; and if he had really abandoned that Interest, his private Intelligences or Services, with Regard to the Interest or Councils of the

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Pretender,

Pretender, can't reasonably be supposed, in our Opinions, to be of great Value.

5^{thly}, We think that no Assurances which this Person hath given, nor any Services he can have perform'd since his Commission of the Treasons aforesaid, or any further Obligations he can enter into, can be a sufficient Security to his Majesty or the Kingdom against his future Infincerity, which may happen, he having already so often violated the most solemn Assurances and Obligations, and in Defiance of them having openly attempted the dethroning of his Majesty, and the Destruction of the Liberties of his Country.

6^{thly}, We think the Services he may have perform'd, if any, ought not to be rewarded either in the Degree or the Manner provided by this Bill, it having been found by Experience, in Cases of like Nature, that the strongest Assurances have afterwards proved deceitful; for which Reason we conceive it to be unwise and dangerous to give such Rewards as can't be recalled, tho' the Assurances should be broke; and we believe it to be the known Policy and universal Practice of wise Governments to keep the Persons (claiming Merit from such Services as the late Lord *Bolingbroke* can possibly have performed since the Commissions of his Treasons) dependent on the Government for the Continuance of those Rewards.

7^{thly}, The Pardon of the late Lord *Bolingbroke*, under the great Seal, having been communicated to the House, and under Consideration on the Debate of this Bill, we think that this Bill ought not to pass, because it may hereafter be construed, in some Degree, to confirm or countenance that Pardon; and we are of Opinion, that that Pardon, though it may be legal as to the Treasons committed by him since his Attainder, yet so far as it may be construed (if that should be) to pardon or affect the Act of Attainder of the late Lord *Bolingbroke*, or the Impeachment of the Commons, on which that Act is founded, it is a most dangerous Violation of the ancient Rights and Freedom of the Kingdom, and will defeat the whole Use and Effect of Impeachments by the Commons; which is, as we think, the chief Institution,
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arising even from the Constitution itself, for the Preservation of the Government, and for the attaining parliamentary Justice; and tends, as we conceive, to render the Rights and Judicature of this House, on Impeachments and Bills of Attainder, vain and useless; all which ancient Rights of both Houses, and of the Subjects of this Nation, were saved to them by the Revolution, and were intended, as we conceive, to have been for ever preserved to them in their full Extent, by the Act passed in the Reign of the late King *William*, of ever glorious Memory, by which the Crown of these Realms is limited and settled on his present Majesty and his Issue, and in which Act it stands declared, that no Pardon under the Great Seal shall be pleadable to an Impeachment of the Commons.

8thly, We are of Opinion, that the Power of dispensing Mercy is an ancient inherent Right of the Crown of these Realms, and the Exercise of it, of great Benefit to the People, when 'tis wisely and properly applied; but it being incumbent on us, in the Vote we give for or against passing this Bill, to judge between the late Lord *Balingbroke*, and to consider the Right and Title he appears to us to have to the Benefits of this Bill, and the Concern which, on the other Side, the Honour, Interest and Safety of the King and his Royal Family, and the whole Kingdom, have, in our Opinion, from the Consequences of it, we think we can't be justified in our own Thoughts, with Regard to the latter, or to our Posterity, if we should consent that this Bill should pass.

Bristol, Onslow, Lechmere.
Coventry, Clinton,

Die Mercurii 26^o Maii, 1725.

The Lords having unanimously found the Earl of *Macclesfield* guilty of the High Crimes and Misdemeanors charged on him by the Impeachment of the House of Commons, and come to a Resolution that the said Earl should be fined,

The Question was proposed and put, whether the said Earl shall be for ever incapable of any Office, Place or Employment in the State or Common-

wealth?

It was resolved in the Negative.

Dissentient

1st, Because it is certain that the Honour and Dignity of the Crown, the Security of our religious and civil Rights, and the Preservation of our most excellent Constitution in Church and State, entirely depend upon the Probity, Integrity and Ability of those Persons whom his Majesty shall call to his Councils, and who shall be employed in any Office, Place or Employment in the State or Commonwealth.

2^{dly}, Because, we conceive, a Person impeached by *the House of Commons* of Corruption of the deepest Dye, and who, after a full and legal Trial, was by this House unanimously found Guilty of High-Crimes and Misdemeanors, charged on him by *the House of Commons*, which High-Crimes and Misdemeanors were committed by him in the Execution of its high Station as Lord High *Chancellor of Great-Britain*, ought not to be exempted from this Part of the Sentence, which has always been thought proper to be inflicted by our Ancestors, both in Regard to the Safety of the Government, and the Justice of this House, on Persons convicted of Crimes of the like Nature; and we do not find one Instance on the Journals of Parliament, where this Penalty has been omitted.

3^{dly}, We apprehend that his Majesty having removed the Earl of *Macclesfield* from the Trust reposed in him by the Custody of the *Great Seal*, and having earnestly recommended to the Lords Commissioners appointed to succeed him, the taking effectual Care, that entire Satisfaction be made to the Suitors of the Court, and that such Suitors be not exposed to any Dangers for the future, and fully expressed his gracious Disposition that the said Lords Commissioners should look narrowly into the Behaviour of all the Officers under their Jurisdiction, and should see that such Officers act with the strictest Regard to Justice, and to the Ease of his Subjects (which is a plain Indication of his Majesty's just Resentment of the Earl's ill Conduct, during his presiding in the Court of *Chancery*) and having, in great Tenderness to the injured Nation, recommended the Protection of the unhappy Sufferers to the Justice of Parliament, we thought it

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incumbent upon us, on this great Occasion, when the Commons have so clearly made out their Charge against the impeached Earl, not to depart from the Methods of our Ancestors in the framing of our Sentence, with an unusual Tenderness to a Person, against whom the whole Nation cries for Justice, but to pursue their glorious Steps upon the like Occasions, and to incapacitate the said Earl from having any Office, Place or Employment in the State or Common-wealth, as the most effectual Means to deter others from being guilty of the like Crimes for the future.

Wharton,

Strafford,

Denbigh,

Abington,

Pomfret,

Compton.

Bruce;

We do dissent to the beforementioned Question for the Reasons following:

1st, This House having resolved, that *the House of Commons* have made good their Charge of High Crimes and Misdemeanors against the Earl impeached, and by a subsequent Resolution having unanimously declared him Guilty, we are of Opinion, that it is a necessary Consequence in Law, Justice, Honour and Conscience, that the Disabilities contained in the Question proposed should be a Part of his Punishment, they being such as, we think, the wholesome Laws and Statutes, against which the Earl has offended, do expressly ordain for the Punishment of his Crimes, and such as the Nature, Circumstances and Consequences of his Guilt do, in our Opinions, most justly deserve.

2^{dly}, The Articles of *the House of Commons*, whereof the Earl is, in our Opinions, declared guilty, are an Accusation of him for many repeated Acts of Bribery, Extortion, Perjury, and Oppression, committed by Colour of his Office of Lord High Chancellor, and of many Endeavours to have concealed and suppressed the Discovery of them, even from the Knowledge of his Majesty; those Crimes therefore being by the Laws of this Land, and, as we believe, by the Laws of all civilized Nations in the World, adjudged to be Crimes of an infamous Nature, we think the Incapacity proposed by this Question to be one natural and unavoidable Step to have been made by this House in the Judgment on *those Crimes*.

3^{dly}, The Earl, in his Answer to the Articles of the Commons, hath asserted; that the Taking the many Sums by him from the Masters in *Chancery* (which Sums he there calls Presents) was never before looked upon to be criminal; and hopes that the giving or receiving such a Present is not criminal in itself, or by the common Law of this Realm, and that there is not any Act of Parliament whatsoever by which the same is made criminal, or subject to any Punishment or Judgment, which can be prayed in this Prosecution: The Earl himself, and his Council on his Behalf, upon his Trial, attempted to justify his Extortions (then called Complements) and endeavoured to maintain, that they are conformable to the Laws of the Land; but we cannot reflect on this Behaviour of the Earl otherwise than as the highest Dishonour thrown by him upon the Laws and Government of this Kingdom, and a most daring and groundless Endeavour to disparage the common Law of the Land, *Magna Charta* itself, the clear and express Injunctions of many Statutes, particularly those passed in the Reigns of *Richard II.* *Henry IV.* and *Edward VI.* in his Behalf, and of an Act passed this Session of Parliament for the Indemnification of the Masters in *Chancery*; against the plain Sense of all which Laws the Earl has, in our Opinions, knowingly and wilfully offended; and as this unparalleled Justification attempted by the Earl will be transmitted to all Posterity, we think it absolutely necessary, that the Punishment proposed by this Question should have been inflicted, in Vindication of the Laws and Government itself, against the Aspersions the Earl has thrown upon both, and to prevent any Imputation which may hereafter be cast on the Honour and Justice of this House, as having, on this Occasion, in any Degree seemed to favour or countenance such Defence.

4^{thly}, The Earl has in his Answer asserted some of his Practices to have been long used by his Predecessors, and by others being Chief Justices, Masters of the *Rolls*, and other Judges; and on his Trial offered Evidence to prove his Assertion in four Instances only, three of them in the Time of one, and the other in the Time of his immediate Predecessor; but tho' those Instances, as we think, were unattended with the many Aggravations of

the Earl's Guilt in those Respects, yet lest those Examples, together with that of the Earl, should hereafter be construed a Mitigation of his, or an Encouragement to the like Offence, we think the Punishment now proposed, ought to have been inflicted, by which it would become the more exemplary; and the rather, because it appears to us highly probable; that the Imputation as it is thrown by the Earl upon his Predecessors, is unjust; the Memory of many of those wise and excellent Persons never having been, as we believe, stained with an Imputation, till the Earl cast it on them; and some of his Predecessors having, in several Ages, fallen under the severe and strict Inquisition of Parliament for Bribery and Corruption, without any Charge upon them for that criminal Practice.

5^{thly}, We are of Opinion, that this House, now exercising its Judicature as the supreme Court in this Kingdom, upon an Accusation of the Commons for Offences against the known Laws of the Land, has no legal Power or Authority to dispense with or omit those Punishments which are expressly ordained by positive Acts of Parliament; and it appears to us to be indisputable, that the Disabilities proposed by this Question are expressly ordained by the Statute made 11 *Hen. IV.* and in some Degree by the Statute 5 & 6 *Edw. VI.* against buying and selling Offices, for the very same Offences of which this House hath, as we conceive, declared (and of which we are fully satisfied in our Consciences) the Earl is guilty; and the Punishment proposed in this Question hath been inflicted by the House in the Cases of the Lord *Bacon* and Earl of *Middlesex*, for Corruptions, in our Opinions, much less heinous than the Crimes of the Earl impeached; and the Judgments given by this House on those two Persons were founded, as we think, not only upon the Nature of the Crimes, but were directed and prescribed by the Acts of Parliament above-mentioned, and still remain on the Records of this House unimpeached, and their Authority never judicially questioned, to our Knowledge, but are often referred to and approved by the most learned Authors and Judges of the Laws of this Land; we are therefore of Opinion, that it was not only wise, but even that the Law re-

quires, that the Judgment upon the Earl impeached should be consonant in this respect to the Judgment of this House, in those two Instances; whereby the Law of the Land in this Particular stands declared, as we think, by the Authority of the supreme Judicature of the Kingdom, and which no Power less than the Authority of an Act of Parliament, in our Opinions, can abrogate.

6^{thly}, It having appeared, on the Trial of the impeached Lord, that the most dangerous and destructive Corruptions have been committed by him whilst, in the highest Station, in the Administration of publick Justice, to the great Dishonour of the Crown, and the Detriment of great Numbers of the King's Subjects, and in one Instance, whilst he (with others) was in the Exercise of the Regal Authority; we think it of the highest Consequence to the Honour and Support of his Majesty's Government, and the Satisfaction of the whole Kingdom, that the Earl should, by the Judgment of this House, have been incapacitated from ever having the Power or Opportunity of re-acting the like Corruptions, against which, as we conceive, there could be no Security, but by inflicting upon him the Disabilities proposed in this Question.

| | | |
|--------------------|--------------------|---------------------|
| <i>Scarsdale,</i> | <i>Ashturnham,</i> | <i>Hay,</i> |
| <i>Greenwich,</i> | <i>Wharton,</i> | <i>Masbam,</i> |
| <i>Strafford,</i> | <i>Carlisle,</i> | <i>Northampton,</i> |
| <i>Denbigh,</i> | <i>Litchfield,</i> | <i>Abingdon,</i> |
| <i>Buchan,</i> | <i>Gower,</i> | <i>Bristol,</i> |
| <i>Hallifax,</i> | <i>Brooke,</i> | <i>Bathurst,</i> |
| <i>Harborough,</i> | <i>Bruce,</i> | <i>Lechmere,</i> |
| <i>Selkirk,</i> | <i>Manchester,</i> | <i>Suffex.</i> |
| <i>Orkney,</i> | | |

Then it being moved to resolve, That the said Earl shall never sit in Parliament, nor come within the Verge of the Court,

After further Debate, the Question was put, that the said Earl shall never sit in Parliament, nor come within the Verge of the Court?

It was resolved in the Negative.

Dis.

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NotCont. 45

Dissentient

1st, We cannot agree to this Resolution for the Reasons given in the last Protest; and further, we conceive, that there was the greater Necessity for the Punishment proposed in this, from the Determination of the House on the former Question, from whence (and also from the Question having passed in the Negative) there remains, as we apprehend, no Punishment, but a pecuniary one, to be inflicted on the impeached Earl for his heinous and unexampled Misdemeanors; which Punishment we think (and we fear the whole Nation will judge) to be utterly inadequate to his Transgressions, and not consistent with the Resolutions already passed by this House upon the Earl, whereby he is render'd in Judgment of Law, as we think, an infamous Person, and not capable of bearing Testimony as a Witness, much less to sit in this supreme Court as a Judge, perhaps on Points of the highest Moment to the Kingdom, and over the Lives, Liberties and Properties of the Subjects, many of which he has, in our Opinions, already so notoriously injured.

2^{dly}, Because we find, that the Punishment now proposed has been inflicted in the two Instances of Lord Bacon and the Earl of Middlesex; and the like in earlier Instances, particularly in the Case of *Hubert de Burgo*, created Earl of *Kent*, who was afterwards charged in Parliament for counselling the King to cancel *Magna Charta*, and for other Offences, and was degraded from his Dignity by the Judgment of his Peers; and we conceive, that the Condemnation which this House has already passed on this Earl is founded upon the most aggravated Guilt which has ever appeared in any Criminal, whose Offences were not capital; amongst which his repeated Wholesales (as we conceive them to be) of the Justice of the Court of *Chancery*, in the corrupt Dispositions of the Offices of the Masters, were, as far as in him lay, so many Barthers and Sales of *Magna Charta* itself, by which the Sale of Justice is prohibited.

3^{dly}, We conceive it to be utterly inconsistent with the Honour and Dignity of this House, to let a Lord condemned, as we think, for the most dangerous Corruptions committed by him whilst he was a Judge, to

continue afterwards in the Enjoyment of his Seat in this House, under no other Censure than of a Fine, and Imprisonment till that is paid; because, we fear, it may hereafter give too much Encouragement to the worst Corruptions in the greatest Officers of the State, if, from the Example of this Earl, it should be hoped their Crimes may be ransomed by a small Part, perhaps, of their corrupt and extorsive Gains; by which means the greatest Offenders of this sort may think their Impunity the more secure, by so much the higher that they carry, and the more they succeed in their corrupt Practices: We think also, that the Sum of thirty thousand Pounds, if that should be the Fine, does very little, if at all, exceed the gross Sums this Earl has received, as we believe, in Bounties from his Majesty, over and above the due Profits of his Offices, and the other great Sums he has extorted and still retains; we are therefore of Opinion, that the Infamy, which, we think, is due to the Crimes of which the Earl is condemned, should have been fixed upon him by the Disability proposed in this Question.

*Scarsdale,**Northampton,**Greenwich,**Wharton,**Brooke,**Abburnham,**Strafford,**Bruce,**Abingdon,**Selkirk,**Buchan,**Carlisle,**Manchester,**Denbigh,**Bristol,**Gower,**Hallifax,**Hay,**Batterß,**Lechmere,**Litchfield,**Harborough,**Massam,**Orkney.*

We dissent to the last mentioned Question for the Reasons following:

1st, For the first Reasons given on the foregoing Question, which, we apprehend, hold the stronger against his being permitted to sit in the highest Court of Judicature, since it may oppose the Judgment of that House to Censure, when a Person guilty of such corrupt Practices shall be one of the Judges.

2^{dly}, We apprehend, that a Person whom his Majesty has, in such a Manner, removed from being a Judge of his Subjects Properties, cannot be thought fit to sit in this House, in such Case as may affect the Lives of every
 Person

Peer of this House, and the Property of all the Subjects of Great-Britain.

Wharton,
Pomfret,

Abingdon,
Bruce,

Compton,
Strafford.

Die Jovis 17^o Februarii, 1725.

Report was made from a Committee of the whole House, to whom it was referred to consider of the Treaty of Peace and Commerce between the Emperor and the King of Spain, as also the Treaty of *Manöver*. That the Committee had come to a Resolution for an Address of Thanks to his Majesty, and other Matters.

And it being proposed to add these Words, *viz.* [This House not doubting but your Majesty, in your great Wisdom and Justice to these your Kingdoms, will always preserve to them the full and entire Benefit of the Provision made for further securing our Religion, Laws, and Liberties, by an Act passed in the twelfth and thirteenth Years of the Reign of his late Majesty King *William III.* of glorious Memory; whereby it is enacted, " That in Case the Crown and Imperial Dignity of this Realm shall hereafter come to any Person not being a Native of this Kingdom of *England*, this Nation be not obliged to engage in any War for the Defence of any Dominions or Territories which do not belong to the Crown of *England*, without the Consent of Parliament.]

Which being objected to,

After Debate, the Question was, whether those Words shall be made Part of the said Resolution?

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It was resolved in the Negative.

Dissentient

1st, The Clause of the Act of Parliament referred to in the Words proposed to be added, being passed into a Law upon the solemn Occasion of settling the Crown of these Realms upon his Majesty and his Royal Issue, and the same Provision, and others, in that Act made, having been since re-enacted by Parliament upon another very solemn Occasion, we are of Opinion, that it is hereby become a fundamental and a very sacred Part of the

Con.

Constitution of the united Kingdom, upon the strict and unviolable Observance of which the future Tranquility of this Nation, and the Properties of the Subjects of *Great-Britain*, may, in our Opinions, greatly depend; and therefore we thought the Words proposed fit to be added to a Resolution of this House, wherein the Defence of his Majesty's Dominions and Territories, not belonging to the Crown of these Realms, is, as we conceive, in some measure engaged for.

2^{dly}, We are of Opinion, that the unfeigned Zeal constantly shewn by this House in Defence of his Majesty's sacred Person, and the Honour and true Interest of his Government, can never fail to exert itself in Vindication of his Majesty's Honour against all Insults and Indignities whatsoever; and tho' we are far from thinking but that a Case may arise, wherein the Consent of this House to engage this Nation in a War in Defence of his Majesty's Dominions in *Germany* may be both just and necessary, yet it being, in our Judgments, reserved to both Houses of Parliament, by the Laws above-mentioned, to deliberate and advise upon all the Circumstances, and thereupon to consent to the Justice of the Cause whereby this Nation shall at any time be engaged in a War upon that Account, we are therefore convinced, that the Words proposed ought to have been added to the Resolution.

3^{dly}, And the rather, because the Words proposed to be added import the most dutiful and entire Confidence in his Majesty's Wisdom and Justice to these Kingdoms in that respect; and therefore, if they had been added to the Resolution of this House at this critical Juncture, would, as we conceive, have prevented any Jealousies which might happen to arise in the Minds of the Subjects of this Realm, in a Matter which we think to be of such high Importance to them.

Strafford,
Leckmere,
Compton,

Scarsdale,
Litchfield,
Craven,

Bristol,
Aberdeen.

Die Mercurii 20^o Aprilis, 1726.

The Order of the Day being read for taking into Consideration that Part of the printed Votes of the House
of

of Commons of the 24th of *March*, 1725, purporting to be a Message to that House from his Majesty, under his Royal Sign-Manual,

And the same being read by the Clerk,

It was proposed to adjourn the further Consideration thereof for a Month.

After Debate, the Question was put, whether the further Consideration of the said Order of the Day shall be adjourned to this Day-Month?

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Not Cont. 31

It was resolved in the Affirmative.

Dissentient

1st, Because we conceive the Subject-Matter of this Debate to be of so great Consequence to his Majesty's Service, to the Honour of this House, to the Constitution of Parliament, and to the Prosperity of the Kingdom, that it ought not to have been postponed at all, much less for such a Length of Time: It must be for the Service and Support of the Crown to have the Advice of both Houses of Parliament upon all Occasions; and as the Message taken Notice of was only sent to *the House of Commons*, there has hitherto been no Communication with this House thereupon, tho' it contains Matters of the highest Importance; and we conceive, that it tends to undermine the very Foundation of this House, when the Lower House is alone advised with upon any Matter which concerns the Interest of the whole Kingdom.

2^{dly}, As this House has always been esteemed the Hereditary and perpetual Guardians of the Liberties and Properties of the People, they ought not to be excluded from giving their Advice in all Matters of Publick Concern; and the Rights of the People of *England* are, as we apprehend, invaded, whenever they are deprived of the Assistance of this House of Parliament, without whom no Aids can be given to the Crown, nor no Taxes imposed on the People; therefore, as we conceive, this Message being sent to *the House of Commons* only tends to subvert those Rights: We think this Debate should not have been adjourned, lest any Inference should be drawn from this dilatory Proceeding, that this House is not as jealous of their Rights and Privileges at this Time, and

as much determined to support them, as any of their Ancestors have formerly been.

3dly, Since it cannot be doubted, that it is an inherent and fundamental Right in this House to alter and amend all Money-Bills which come from the Commons, we cannot but apprehend also, that Demands of Supply should come from the Throne in this House of Parliament, according to antient Usage; and, we conceive, all other Methods of demanding Supplies are new, and must be dangerous to the Constitution.

4thly, Because there is an Expression in the Message which we apprehend to be entirely unprecedented, and never before used in any Message to *the House of Commons*, the Appellation of Parliament being given to them separately from this House; and therefore, lest any Mistake of this Kind should be attended with such ill Consequences as to encourage evil Ministers hereafter to total Neglect of this House, we conceive, the proper Notice should have been taken of it immediately, without deferring the further Consideration thereof for a Month.

Scarsdale,

Aberdeen,

Strafford;

Coventry,

Gower,

Asbburnham,

Boyle,

Compton,

Exeter,

Craven,

Bruce,

Litchfield,

Montjoy,

Lechmere,

Warrington;

Batburst,

Uxbridge,

Foley.

Die Martis 24^o Januarii, 1726.

Report was made from a Committee of the whole House to whom it was referred to consider of his Majesty's Speech at the Beginning of the Session, and some Papers containing Transactions between the Courts of *Great-Britain* and *Spain*, since the appearing of the *British* Fleet on the Coast of *Spain* or the *West-Indies*, together with a Copy of the Accession of the States-General to the Treaty of *Hanover*, That they had come to the following Resolution, *viz.*

That it fully appears to this Committee, upon Consideration of his Majesty's Speech, and the Letters and Memorials laid before the House by his Majesty's Order, That the Measures his Majesty has thought fit to
take

ake were honourable, just, and necessary for preventing the Execution of the dangerous Engagements enter'd into in Favour of the *Pretender*, for preserving the Dominions belonging to the Crown of *Great Britain* by solemn Treaties, and particularly those of *Gibraltar* and the Island of *Minorca*, and for maintaining to his People their most valuable Rights and Privileges of Commerce, and the Peace and Tranquillity of *Europe*.

Which being read twice by the Clerk,

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The Question was put, whether to agree with the Committee in this Resolution?
It was resolved in the Affirmative.

Dissentient

1st, The Resolution of the Committee being not only a Justification of the Measures therein mention'd, but tending to approve the Counsels which have been given to the Crown relating thereto, we can by no means agree, that it fully appears they were honourable, just, and necessary, before they have been maturely and distinctly considered; the only Question as yet debated in the Committee (except the Resolution) being upon an Address of Advice to his Majesty for obtaining a further Security from and Confidence with his Allies, in Case of a Rupture; which Address appeared to us more reasonable and necessary, in the present Conjunction, than any Vote of Approbation; we therefore cannot concur in approving Measures and Counsels not yet examined into, the further Consideration whereof may be also precluded by this Resolution.

2^{dly}, The Papers hitherto laid before the House, in order to the Consideration of his Majesty's Speech, are such only as concerted the Accession of the States General to the Treaty of *Hanover*, and the Letters and Memorials since the Arrival of the *British* Fleet on the Coast of *Spain* in *America*; but none of the Negotiations or Measures (which we suppose to have been many) that have been carried on between the Courts of *Britain* and *Vienna*, and the Northern Powers, which his Majesty's Speech and the Resolution also may have relation to, have as yet been communicated to this House: But all those Measures, and many others unknown (as we believe

believe to this House) are, in our Opinions, intended to be approved and justified by this Resolution; to which therefore we cannot concur, no more than if it had declared the Measures honourable, just, and necessary, which shall hereafter be taken for the Purposes therein mentioned.

3dly, Altho' we rely, in the most dutiful manner, on the Declaration made from the Throne concerning a secret dangerous Engagement for placing the *Pretender* on the Throne of these Kingdoms; yet finding, by the Papers laid before the House, that any such Engagement or Measure, for putting the same in Execution, is absolutely denied on the Part of the Crown of *Spain* (one of the supposed Parties to the said Engagement) we cannot agree to the Resolution, because Time may evince, that the Informations his Majesty has received concerning that Engagement were not justly grounded; and the Measures taken to prevent the Executions of them (whatever they were) not having been as yet particularly considered, we cannot declare them honourable, just, and necessary.

4thly, We find it charged in one of the Papers laid before the House, that very considerable Sums of Money have been sent and employed in *France, Holland, Prussia, Sweden*, and other Places, to promote and accomplish the Designs of the *British* Court: which Insinuation, as vile as we think it is, the Committee have not yet taken the same into their Consideration, tho' a thorough Examination into the Grounds of that Insinuation is, in our Opinions, absolutely necessary for the Honour of his Majesty's Government, and the Satisfaction of this House; we cannot therefore agree to the Resolution, which, as we conceive, may be construed to stop all future Inquiries into this Matter.

5thly, Whatever Measures may have been taken to preserve *Gibraltar* and the Isle of *Minorca*, yet we cannot agree to declare them honourable, just, and necessary, before they have been fully considered in the Committee; and the rather, because we find it asserted, on the Part of *Spain*, in one or more of the Memorials before the House, That a positive Promise has been made, on the Behalf of *Britain*, for the Restitution of *Gibraltar*.

War to Spain; on the Performence of which Promise *Spain*, as it appears to us, still insists :. We cannot therefore agree to the Resolution, before the Truth and all the Circumstances of that pretended Promise are thoroughly examined into; which Promise, if it should appear to have been made, as is asserted, we are of opinion, that it was highly criminal in those who advised it.

6thly, The Measures taken for maintaining the *British* Commerce and the Tranquillity of *Europe* have not, as we think, been under the distinct Consideration of the Committee, since the Memorials and Letters were laid before the House; and the Oppositions made, if any, on behalf of *Britain* at the Court of *Vienna*, to the *East-India* Company, are unknown to us, as well as the Circumstances relating to the late *Baltick* Expedition; and yet all these Matters were the proper Consideration of the Committee; for which, and the other Reasons above-mentioned, we being apprehensive, that the Resolution proposed may not give solid Ground of Satisfaction to the People of *Britain*; or to any foreign Powers in Alliance with us, or conduce to the Honour of his Majesty's Government, or the Support of the Dignity of his House, can't agree thereto.

Scarsdale,

Bristol,

Coventry,

Bruce,

Montjoy,

Aberdeen,

Strafford,

Lechmere,

Boyle,

St. John de Bletsoe,

Gower,

Batburſt,

Weston,

Compton,

Foley,

Oxford and Mortimer.

Then it was moved to resolve, That an humble Address be presented to his Majesty, representing the deep concern of this House on the Prospect of the imminent dangers which threaten these Kingdoms, and all *Europe*, at this Juncture, from the formidable Confederacies which his Majesty assured his Parliament were entered into between the Courts of *Spain*, *Vienna*, *Russia*, and other Powers, whereby the general Tranquillity may soon be broke, and *Europe* engaged in a new War; and it appearing to this House from the Act of Accession of the *States-General*, and the separate Articles thereto belonging, that their Accession is made upon several

veral Conditions and Reserves on their Part, and particularly that in the separate Article concerning the Commerce of the *Austrian* Low Countries to the *Indies*, it is provided, That if on Account of their Use of their Right of Commerce, or in Hatred of that Alliance, any Disturbance should happen, and his Imperial Majesty should suspend or retain the Payment of the Subsidies due to the Publick for the Maintenance of their Troops in the Places of the Barrier, or the Payment of the Interest and Principal placed by Mortgage on divers Funds assigned by his Imperial Majesty for the Security of that Payment, or make use of any other kind of Reprisals or Ways of Force, that it is the Intention of the other contracting Powers to protect and maintain the *States-General* in their Right of Commerce to the *Indies*, and guaranty them from all the Consequences which might result therefrom, without having Power to proceed by force against the Company of *Ostend*, before the contracting Powers shall have agreed thereon; and by another separate Article it being stipulated and reserved to the *States-General*, that they shall continue to have the same Liberty with respect to every thing that shall be proposed to them by the contracting Powers upon such Points, whose Object shall be the maintaining the Balance of Power in *Europe*, as they had before their Accession, to take part in the Measures which they should not consent to.

And it appearing to this House, that his *Prussian* Majesty did not concur in the said Accession of the *States-General*; in consequence of all which, the Strength and Security which the Treaty of *Hanover* might otherwise import in the present unhappy Circumstances is much weakened; and in case of a general Rupture, the Danger, as well as the Burthen of the War, must fall upon *Great-Britain*; and the Preservation of the Ballance of Power in *Europe* depends on the Continuance of the Friendship and Assistance of *France* alone, unless more effectual Measures are taken for that great End.

Therefore, that this House, out of Duty to his sacred Majesty, and from their unfeigned Zeal for the Safety of his Government and the Liberties of *Europe*, doth most earnestly beseech his Majesty to make new
and

and pressing Instances with his *Prussian* Majesty and the *States-General* to concur with his Majesty and his other Allies in such Manner as the present critical and dangerous Juncture requires, and as in the Event of a War, in case a War is unavoidable, his Majesty may, by the Blessing of God, secure a just Ballance of Power in *Europe*, as well as the Religion, Liberties, Properties, and Commerce of his Subjects.

Which being objected to,

'The Question was put, whether such an Address shall be made to his Majesty?

It was resolved in the Negative.

Dissentient

The Address proposed representing, as we think, the present State of the late Defensive Alliance made at *Hanover*, which, for aught appears to us, is the main Support on which *Britain* can depend, besides its own Strength, in case of a general Rupture in *Europe*, we thought it highly necessary that it should have passed into a Resolution, whereby his Majesty's Hands might have been strengthen'd in his further Concerts with his Allies, and such further Measures effected as are necessary to preserve his Alliances during the War, against the dangerous Combinations level'd against *Great-Britain*, and by which such a Repartition of Conquests, in case of Success, might be previously settled, as in the Event would prevent the Loss of a just Ballance of Power in *Europe*; and we are the more convinced of the Necessity of the Advice proposed in the Address, because we find, in one of the Letters laid before the House, that a Proposition has been made by the Court of *Spain* to the King of *France*, though not agreed to, to declare himself against *Great-Britain*, on a Promise (which we hope is groundless) that the Defensive Alliance between *Great-Britain* and *France* doth no longer subsist.

| | | |
|-----------------------------|-------------------|------------------|
| <i>Scarfsdale,</i> | <i>Coventry,</i> | <i>Boyle,</i> |
| <i>St. John de Blasos,</i> | <i>Strafford,</i> | <i>Compton,</i> |
| <i>Gower,</i> | <i>Bathurst,</i> | <i>Bruce,</i> |
| <i>Bristol,</i> | <i>Montjoy,</i> | <i>Aberdeen,</i> |
| <i>Weston,</i> | <i>Lechmere,</i> | <i>Foley.</i> |
| <i>Oxford and Mortimer,</i> | <i>Mastham,</i> | |

After

After which, it was moved to Order, that this House will on this Day Seven-night take into further Consideration his Majesty's most Gracious Speech.

The same being objected to, and Debate had thereon, The Question was put upon the said Motion?

It was resolved in the Negative.

Dissentient

1st, Because the Committee having sat one Day only on the Consideration of his Majesty's Speech, could possibly deliberate but upon few of the many weighty Points which arise thereon; on all which the Advice and Support of this House, in our Opinions is absolutely necessary; and since even the Facts relating to many of these weighty Matters have not, as we conceive, been yet laid before the House, we think, the further Consideration of the Speech should not have been refused, there not being, as we believe, any Precedent for such a Refusal, under the like Circumstances, on the Journals of this House.

2^{dly}, His Majesty's Speech containing the Causes of Calling his Parliament, and the Advice of the House to the Crown being required thereon, the Refusal of the Day proposed seems to us, tending to disable this House from discharging their Duty to the Crown, as well as to the Kingdom, in this critical and dangerous Juncture; and as the further Consideration proposed is thereby at present refused, the Precedent (as we fear) lays a Foundation for depriving this House in future Times of any Opportunity at all for such Considerations, by which Means this House must (in our Opinions) be render'd useless in those great Affairs, whereon the Safety and Support of the Liberties of the Kingdom may depend.

Bugge,

Aberdeen,

Strafford,

Bristol,

Scarsdale,

Oxford and Mortimer,

Lechmere, Montjoy,

Weston, Boyle,

Masbam, Foley,

Coventry, St. John de Blisset,

Batburst, Compton.

Die Mercurii 19^o Aprilis, 1727.

Hodie 3^a vice lecta est Billa, entitled, An Act for continuing the Duties upon Malt, Mum, Cyder and Perry.

Perry in that Part of *Great-Britain* called *England*; and for granting to his Majesty certain Duties upon Malt, Mum, Cyder and Perry in that Part of *Great-Britain* called *Scotland*, for the Service of the Year 1727; and for appropriating the Supplies granted Duplicates of *Exchequer* Bills, Lottery Tickets and Orders lost, burnt or otherwise destroyed; and for giving further Time to Clerks and Apprentices to pay Duties omitted to be paid for their Indentures and Contracts.

Contents 73 After Debate, the Question was put,
Not Cont. 17 whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because in this Bill it is enacted, that out of the Aids or Supplies granted this Session of Parliament, there shall and may be from Time to Time issued and applied such Sum or Sums of Money as shall be necessary for and towards answering and defraying such Expences and Engagements as have at any Time been, or shall before or until the 25th Day of *December*, 1727, be made by his Majesty, in concerting such Measures, as he in his great Wisdom thinks will best conduce to the Security of the Trade and Navigation of this Kingdom, and to the preserving and restoring the Peace of *Europe*; which Clause, we think, is inconsistent with that Part of the Bill, which forbids the Supplies to be issued to any other Purpose than those specified, and renders ineffectual that Appropriation of the Publick-Money, which the Wisdom of many Parliaments has thought, and, we are convinced, ought to be thought a necessary Security against the Misapplication of it.

2^{dly}, Because there is no Provision in the Bill to oblige any Person to give an Account of any Money that shall be disposed of by Virtue of the Power in this Clause.

3^{dly}, Because there are sufficient Sums granted to answer every particular Purpose that Money can be wanted for, as far as our present Views can reach; and if any unforeseen Emergency should demand a further Supply, we should think that might be provided for, as has been formerly practised, when Necessity required; and we are persuaded this might be done with less Inconvenience, than by this Delegation of almost a dictatorial Authority.

not, at least, till the Parliament could be called together. We have given so many Instances of their Zeal for the Majesty, that he could have no Room to doubt of their Readiness to make good whatever he should have expected for the Advantage of his People.

1747. *Second* we think, that absolute Powers ought to be given in a free Government only upon Occasions of extreme Necessity, and when the very Being of the Government is in danger; and though we allow our present Circumstances to be as melancholly as they have almost at this Time been, yet we think it a very improper Remedy for our present State to depart from the approved and in our Judgment, essential Forms of giving the Publick-Money; nor can we be persuaded, that it is the only, or even the best Expedient that can be found to extricate us out of our unhappy Situation, to repose such a Confidence in the Crown, in the Disposition of immense Sums of Money, as may by the Advice of wicked and mercenary Ministers (if it should be our Misfortune ever to have such) be attended with great Prejudice to our Properties, and great Danger to our Liberties, with the Hope of the Preservation of which we cannot flatter ourselves, but by a strict Adherence to those excellent parliamentary Methods, of granting all Sums of Money only upon Estates, and for Services publicly allowed.

1747. *Third* the Precedents that were offered to justify the Case were far from giving us any Satisfaction, for if they had been plain and full to the Point (which we think they were not yet, in our Opinions, ought not to be followed, lest Cases of the same Nature might become too frequent, and lest an unlimited Power in the Crown to raise Millions on our Fellow-Subjects might be introduced by Degrees as a Thing of Course, and so as to put the total Power to levy and dispose of the Peoples Money be given to one Part of the Legislature, which is our true Constitution is, and with Safety can only be lodged in the Whole.

Stoughton,
Widdowson,
Sturges,
Cox,

Littlefield,
Forster,
Engle,
Latham,

Maynard,
Bathurst,
Alexander,
Croft,

Or-

*Oxford and Mortimer,
Gower,*

*Aylesford, Brooke.
Foley,*

Die Martis 18° Martii, 1728.

The Order of the Day being read for taking into further Consideration the State of the Nation,

It was moved to resolve, That it is the Opinion of this House, that for the Honour of his Majesty, and the Preservation and Security of the Trade and Commerce of this Kingdom, effectual Care should be taken in the present Treaty, that the King of *Spain* do renounce all Claim and Pretension to *Gibraltar* and the Island of *Minorca*, in plain and strong Terms.

Contents 31 After Debate, the Question was put
Not Cont. 84 thereupon? And,

It was resolved in the Negative.

Dissentient

1st, Because, we think our Right to a Place of such Importance to our Commerce should be secured by more than general Stipulations, which may be liable to different Constructions, and will probably be interpreted by the *Spaniards* in their own Favour, however we may interpret them in ours.

2^{dly}, Because the King of *Spain*, having claimed by his Ministers several Times, not only from the late King's positive Promise, as he asserts it to be, but from our Forfeiture of it too, by our Infractions of those Conditions on which he gave it up to us; and having actually besieged it since he yielded it to us by Treaty, it seems reasonable to us, that we should insist upon his making his Renunciation of it in Words as plain and strong as he has made his Claim to it, especially since, as far as we have heard, our Plenipotentiaries have not been able to prevail upon him to shew any Inclination to relinquish his Pretensions to it during the long Course of these perplexed Negotiations, in which we have been unskilfully, as we fear, and we are sure we have been unfortunately involved.

3^{dly}, We think it is incumbent upon us to take particular Care, that our Right to it should not in the least be precarious, because, we apprehend, we have great Reason to fear that the King of *Spain's* Allies are very
desirous

... and no Reason at
... are solicitous to have it
... the least Room, up-
... Pretensions to it,
... Expressions, we are appre-
... for Uneasiness and A-
... a perfect Harmony be-
... Friendship must always be
... we think our Zeal to
... in that most effectual Manner
... would have terrified any wicked Ministers
... the Thought of giving it up, if ever we
... Circumstances as to have any
... more dangerous to themselves
... and who might for that Reason be
... in glorious Peace at the high Price
... of the Spanish Dominions.

| | | |
|-------------------|--------------|-------------|
| James Oglethorpe, | Bartholomew, | Coventry, |
| John Oglethorpe, | Bartholomew, | Litchfield, |
| John Oglethorpe, | Bartholomew, | Craven, |
| John Oglethorpe, | Bartholomew, | Abingdon, |
| John Oglethorpe, | Bartholomew, | Foley, |
| John Oglethorpe, | Bartholomew, | |

15th April, 1729.

The House according to Order, proceeded to take
... the State of the Nation.

And the Reading of the Papers read in Part Yester-
... as well in Re-
... to the Squadron of Ships sent to the *East-Indies*,
... by the *Spaniards* on his
... being read,

... That it appears to this
House, that the Expence of the Squadron sent to the
... under the Command of Vice-Amiral *Hesler*,
... though design-
... from seizing the Effects be-
... as well as his Subjects,
... the *Fleta* or *Galices*, and from
... the Peace, and invade
the Liberties of *Europe*, has been an unreasonable Bur-
then upon this Kingdom.

After

Contents 27 After Debate, the Question was put
 Not Cont. 87 thereupon? And,
 It was resolved in the Negative.

Dissentient

1st, Because, we conceive, that our Allies were, at least, as much concerned as ourselves, to prevent the *Spaniards* from disturbing the Peace and invading the Liberties of *Europe*, if there was at that Time sufficient Foundation to apprehend such Attempts on the Part of *Spain*, and because our Allies, the *French* in particular, had a much greater Share in the Effects of the *Galleons* than the Subjects of this Nation, and by Consequence were much more concerned in Interest to prevent the King of *Spain* from seizing those Effects.

2^{dly}, Because we not only took the whole Charge of this Expedition upon ourselves, but have increased our national Forces, taken great Numbers of Foreign Troops into our Pay, and contracted to pay divers Subsidies to Foreign Princes, when it has not appeared to us in any authentick Manner, as we apprehend, that our Allies have taken upon themselves any Expence proportionable to this, in Consequence of the *Hanover* Treaty.

3^{dly}, Because we are convinced, that the national Expence and Losses occasioned by this Expedition do not only very far exceed any Interest which the Subjects of this Nation can be supposed to have in the *Galleons*, but have likewise been much more considerable than any Detriment which has accrued to *Spain* by delaying the Return of the *Galleons*.

4^{thly}, That by taking this Expedition solely upon ourselves, we drew the whole Resentment of the Court of *Spain* upon this Nation, and gave the *French* an Opportunity of healing the Breaches which had been made between those two Courts, of acquiring a greater Share than ever they had in a most beneficial Branch of Trade, and of acting rather the Part of Mediators than that of Parties in the Dispute.

5^{thly}, We cannot help being of Opinion, that this Burthen was the more unreasonable, since it does not appear that this Expedition has had the Effect of obliging the *Spaniards* clearly to adjust the Points in Dispute between us, or effectually to secure to our Merchants a
 Q just

just Satisfaction for the great Losses which they have sustained by the Seizures and Captures made by the Spaniards.

| | | |
|------------|----------------------|--------------|
| Beaufort, | Oxford and Mortimer, | Litchfield, |
| Strafford, | Plimouth, | Bathurst, |
| Gower, | Foley, | Scarsdale, |
| Montjoy, | Crauen, | Northampton. |
| Coventry, | Willoughby de Broke, | |

Die Lune 5^o Maii, 1729.

The Judges, according to Order, delivered a Bill prepared by them, upon the Debate of the House, entitled, *An Act to disable Thomas Bambridge, Esq; to hold or execute the Office of Warden of the Prison of the Fleet, and to empower his Majesty, his Heirs and Successors, during the Life of the said Thomas Bambridge, to grant the said Office to such Person or Persons as he shall think fit.*

And the same was read the first Time.

Then it being moved, that the Bill be now read a second Time.

The same was objected to.

After Debate, the Question was put, whether this Bill shall be now read a second Time?

And it was resolved in the Affirmative.

Dissentient

1st, Because the reading any Bill twice the same Day is against the standing Orders of this House, which ought not to be broke but in Cases of the utmost Necessity, and even in those Cases ought first to be considered in a full House; or else absent Lords, as well as the Parties concerned in Bills, may be surprised.

2^{dly}, Because we do not conceive that there was the least Necessity or Occasion for reading this Bill twice in one Day.

3^{dly}, Because we are apprehensive, this may be brought as a Precedent hereafter to proceed in too hasty a Way to pass Bills which divest Men of their Properties, and lay Incapacities upon them during Life.

| | | |
|-------------|-----------|-----------|
| Warrington, | Haverham, | Coventry. |
| Strafford, | | |

Die Sabbati 10^o Maii, 1729.

Upon Report from the Committee of the whole House, upon the Bill relating to the Custom on Corn imported, and for appropriating the Supplies granted in this Session of Parliament, and other Purposes, That they had gone through the Bill without any Amendment.

It was proposed to leave out that Part of the Clause of Appropriation which impowers the issuing and applying, on Account of the Arrears of the Revenue granted to his Majesty for Support of his House-hold, any Sum not exceeding the Sum of 115,000*l.* in such Manner, and for such Purposes as his Majesty should appoint, as also the Proviso in Relation to the replacing that Money after his Majesty's Demise.

Which being objected to.

The Question was put, whether that Part of the said Clause of Appropriation shall stand Part of the Bill;

It was resolved in the Affirmative.

'Dissentient'

1st, Because we apprehend, that this Part of the Clause is neither founded on the Words of the Act to which it refers, nor warranted by any Construction thereof; for the Provision made in that Act is, That whenever the Produce of the several Duties and Revenues thereby granted appears to be so deficient, that within any one Year it should not be sufficient to answer and satisfy the Sum of eight hundred Thousand Pounds, then, and not in any other Case, such Deficiency is to be made good out of the next Aids in Parliament. As this Act therefore provides only for a real Deficiency of the Produce, and not for any Arrear in the Receipt within the Year, as it has appeared by the Accounts laid before this House, that the real Produce was considerably more than sufficient to answer the Sum of eight hundred Thousand Pounds, we think, there can be no Colour to affirm that there has been any such Deficiency as the Act can be supposed to provide for: This appears from the Words of the Clause, which directs the Application of the Sum of one Hundred and fifteen Thousand Pounds for and upon Account of Arrears; and we cannot conceive the

Arrears provided for by this Clause, and the Deficiency described in the Act, to be one and the same Thing, since if they could be so understood, the Provision in the Clause would have been made agreeable to the Words of the Act, which relate to a Deficiency only; and it would be highly unjust to his Majesty to direct the Sum of one hundred and fifteen Thousand Pounds to be refunded to the Publick at any Time or under any Conditions; for, if there had been a real Deficiency, the Grant to his Majesty should be absolute, and the Sum of one Hundred and fifteen Thousand Pounds would legally belong to him; so that this Clause either takes from his Majesty what we have no Right to take, or it gives him what, as we conceive, he has no Right to claim; as we cannot then consider this Sum to be given either for a real Deficiency, founded on the Civil-List Act, or that it can be warranted by the said Act, as a supposed Arrear, we conceive it to be a new Grant to his Majesty, and a new Burthen on the People, which does not appear to us to have been demanded by the Crown, and consequently not to have passed according to the Forms hitherto practised and requisite in all such Cases.

2dly, This Clause appears to us unreasonable on many Accounts; as there was no real Deficiency at *Midsummer* 1728, to which Time the Account is stated, so neither is there any Arrear at the Time when this new Supply is granted, but the whole Sum of eight Hundred Thousand Pounds, and considerably more, was come into his Majesty's Coffers, and he was consequently in Possession of the very Money, the supposed Arrear of which is made good to him by this Clause: Thus it seems to us, that the Nation is loaded not to complete, but to augment the Sum designed for his Majesty's Civil-List, and this at a Time when the publick Debts are increased, when the Taxes are heavily felt in all Parts of the Country, when our Foreign Trade is incumber'd and diminished, when our Manufactures decay, when our Poor daily multiply, and when many other national Calamities surround us: These Considerations are in themselves very moving, and we apprehend that they must appear stronger, when it shall be further considered, that ~~his~~ Majesty would be so far from wanting any of these
extra-

extraordinary Supplies, that even without the Provision in the Civil-List Act, for making good Deficiencies, he would be possessed of a far greater Revenue than King *William*, Queen *Anne*, or even his late Majesty enjoyed; and yet his present Majesty, then Prince of *Wales*, received out of the Civil-List Revenues, during the Reign of the late King, one hundred Thousand Pounds *per Annum*, besides the entire Revenues of the Principality of *Wales* and Dutchy of *Cornwal*; whereas it does not appear to us, that a like Sum of one hundred Thousand Pounds *per Annum*, or even the Revenues of the Principality of *Wales*, have been yet settled on his present Royal Highness.

3dly, We cannot but be extremely apprehensive of the many ill Consequences which may follow from a Grant of Money to the Crown, so ill grounded and so unreasonable as we conceive this to be: The Advantage in Favour of his Majesty, established by the Civil-List Act, is very great, since, if the Produce of the Revenues granted and appropriated to the Use of the Civil-List does not answer the yearly Sum of eight hundred Thousand Pounds, the Deficiency is to be made good to his Majesty by the Publick; whereas no Provision is made by which, if the Produce of those Revenues exceeds the Sum of eight hundred Thousand Pounds, the Surplus shall accrue to the Benefit of the Publick; by this Precedent, not only real Deficiencies are to be made good, but Supplies are to be given for Arrears standing out at the End of every Year which shall come in before Supplies can be granted, though the Supply given to make good Arrears in one Year will certainly increase the Surplussages in another: When we consider the Method which has obtained of anticipating the Revenues, before they come to the *Exchequer*, contrary to the ancient and legal Practice, when we reflect in what Manner these Accounts have been made up, and in what Manner they have been brought in, we cannot but apprehend that the Door is opened by this Precedent for laying new and excessive Charges on the Nation: The Revenues appropriated to the Uses of his Majesty's Civil List are subject in their own Nature to vary, and even when there is no Deficiency in the Produce, there may

may be Arrears in the Receipt; these Arrears may easily be increased by the Management of designing Ministers, by private Directions to Receivers, and by artful Methods of stating Accounts; from all which we cannot but apprehend, that now this Precedent is made, we may have frequent Accounts of Arrears, and a grievous and even intolerable Load may be brought on the Nation in a short Time; and we are persuaded that his Majesty can have no Satisfaction in finding his Court abundant in Wealth, whilst he may undergo the Mortification of seeing his People reduced to Poverty; neither can we conceive that the latter Part of the Clause is in any Degree an adequate Provision against the Evil we complain of, or the Apprehensions we entertain; for an Account to be made up at his Majesty's Demise will not prevent the Consequences of this Precedent during his Life; and as we hope that his Reign will be long, so we may be allowed to fear that even during the Continuance of it, this extraordinary Method of increasing his Majesty's private Revenue (already very ample) may prove a Source of general Discontent, which is but too apt to produce general Disaffection.

| | | |
|-----------------------------|---------------------|--------------------|
| <i>Plimoth,</i> | <i>Northampton,</i> | <i>Litchfield,</i> |
| <i>Willoughby de Broke,</i> | <i>Stratford,</i> | <i>Beaufort,</i> |
| <i>Gower,</i> | <i>Warrington,</i> | <i>Scarsdale,</i> |
| <i>Boyle,</i> | <i>Coventry,</i> | <i>Montjoy.</i> |
| <i>Oxford and Mortimer,</i> | <i>Bathurst,</i> | |

Die Lunæ 12^a Maii, 1729.

Hæc 3^a vice lecta est Billa, entitled, An Act to ascertain the Custom payable for Corn and Grain imported; for better ascertaining the Price and Quantity of Corn and Grain, for which a Bounty is payable upon Exportation; for appropriating the Supplies granted in this Session of Parliament; and for giving further Time to Clerks and Apprentices to pay Duties omitted to be paid for their Indentures and Contracts.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

28. Dec.

1st, Because, we conceive, there will accrue less Detriment to the Publick, by rejecting this Bill, than agreeing to it with that Part of the Appropriation Clause, which enacts the Sum of one hundred and fifteen thousand Pounds to be given to his Majesty for and upon Account of Arrears in his Civil-List; since it would have been easy, had this Bill been rejected, to have provided for the general Appropriation of the several Aids granted in this Session of Parliament in some other Manner.

2^{dly}, Because the Revenue for defraying the Expences of his Majesty's Civil Government being considerably more ample than that of any of his Predecessors, we flatter'd ourselves that the Publick would not have been called upon again in so short a time to make an Addition to that liberal Provision for the Crown, though there had been some small Deficiency in some of the Duties appropriated to the Service of it; but this, in our Opinion, is so far from being the Case, that we are firmly persuaded, if we had agreed to this Bill, with that Part of the Clause, we should have consented to a Grant of a new Aid, and not to make good the Deficiency of an old one, since it seems evident to us, that the Produce of the Civil-List Funds, in the first Year of his Majesty's Reign, rather exceeded than fell short of eight hundred thousand Pounds, even from those Accounts delivered into the House which, we believe, will be universally allowed to be free from any Suspicion in favour of the People.

3^{dly}, Because we look upon this to be not only a Grant of a new Aid, but a Grant made in such an irregular Manner, without being demanded by the Crown, that it cannot but give us some Reason to think, that however it may be wanted by the Ministers, it may possibly not be desired by his Majesty.

4^{thly}, Because the literal Interpretation of Part of the Act for settling the Civil-List Revenues on his Majesty, which was contended for, in order to justify that Part of this Clause to which we object, seems to us liable to Consequences very dangerous to the Properties of all the Subjects, by putting it into the Power of those who have the Management of the Publick Money, to give the Crown a Title to the Arrears of the Civil-List Funds.

which might perhaps left on purpose in the Hands of the Treasurer and as a parliamentary Supply for those who should be so.

And because the Argument which was used, for taking the Charge from the Smallness of the Sum, seems to be a much stronger Reason why it should not be asked, than why it should be granted.

And because, we observe, that whenever a Supply for the Civil List has been asked in Parliament, it has caused great Uneasiness in the Nation, though demanded from the Crown's Right, and upon Pretences, in our Opinion, more justifiable, and at Times less unreasonable than this war, notwithstanding our most prevailing Methods of Negotiation, the Fate of Europe, as far as we are enabled to judge, is still in suspense, and we know many Difficulties that unavoidably attend such a doubtful and undetermined Situation of our Affairs abroad; and the Complaints of the People at home are general and loud, and, as we fear, too well founded on Account of their Poverty, and other Calamities with which they have been long afflicted; and when, for that Reason, it appears to us to be not only a proper Clemency but the Policy too, to avoid giving them the least Ground to apprehend that the Parliament, by laying unnecessary Burdens upon them, may itself become one of their Governors.

And, because this Attempt, when we consider it in all its Circumstances, as far as appears to us, is without Example, and we dread lest it should be made one, and laid hold of as a Precedent hereafter, if ever the Nation should have the Misfortune to see a lavish, weak and rapacious Ministry, armed with great Power, desirous to raise such extraordinary Supplies, more in reality to support their own inconsiderate and pernicious Schemes than the Honour and Dignity of the Crown.

Scarfe,

Plimoth,

Beauregard,

Coccyus,

Oxford & Mortimer,

Straford,

Moxey,

Boyle,

Northampton,

Willoughby de Broke,

Warrington,

Litchfield,

Gower,

Bathurst.

Die Martis 17^o Januarii, 1729.

The House (according to Order) proceeded to take into Consideration the Treaty of Peace, Friendship and mutual Defence, between his Majesty and the most *Christian* King, and the King of *Spain*, concluded at *Seville* the Ninth of *November*, N. S. 1729, with the separate Articles thereunto belonging.

And the same being read by the Clerk, it was moved to resolve, That the said Treaty does contain all necessary Stipulations for maintaining and securing the Honour, Dignity, Rights and Possessions of this Crown, and that all due Care is taken therein for the Support of the Trade of this Kingdom, and for repairing the Losses suffered by the Merchants.

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Not Cont. 30

After Debate, the Question was put thereupon? And,

It was resolved in the Affirmative.

Dissentient

Because, we think, this Question from the Debate, as well as from the Import of the Question itself, was designed as a Justification of the whole Treaty, which appears to us neither to be solid, honourable, nor advantageous, for the following Reasons:

1st, Because we know not, whether all the Treaties and Conventions concluded between *England* and *Spain* may be in every Article of them so beneficial to us, as to be fit to be again confirmed and renewed.

2^{dly}, Because as we think it extremely difficult to examine with requisite Nicety, how advantageous every Treaty and Convention between *Great-Britain* and *Spain* may be to us, so we think it absurd to pretend to judge of any future Agreement; and therefore we think it very extraordinary, and apprehend it may be of very ill Consequence to be bound, as we are by this Treaty, to ratify and guaranty whatever Agreement shall be made between the King of *Spain* and the Dukes of *Tuscany* and *Parma*, concerning the Garrisons once established in their Countries.

3^{dly}, Because the Obligation on our Merchants to make Proof of the Justice of their Demands, for their Losses, at the Court of *Spain*, is, in our Opinion, an

Hardship upon them, and not honourable for the Nation: and we are persuaded those unfortunate Gentlemen will undertake so troublesome and expensive a Journey with the less Cheerfulness, because they may fear their Claims are likely to be counterbalanced by others from the Spaniards; and after all they have only the slender Consolator of hoping, if they think there is even any room for ~~us~~ to hope, to get that Redress by Commissioners which they have not hitherto been able to obtain by ~~their~~ ^{their} ~~possibilities~~.

4^{thly}. Because we are obliged to assist in effectuating the Introduction of six thousand Spanish Troops into the Towns of *Tuscany* and *Parma*, without specifying the Methods we are to take, or Charge we are to be at in giving that Assistance; so that, for aught we know, we may be liable to an endless Trouble and unlimited Expence to compass what, if effected, cannot, in our Opinion be of any Advantage to us, but, as we fear, may prove most prejudicial and destructive.

5^{thly}. Because we oblige ourselves to guaranty for ever, not only to Don Carlos, but even to all his Successors, the Right to, and Possession of the Estates of *Tuscany* and *Parma*; which we think is a Stipulation of so extensive a Nature, that we can hardly see we are ever like to be exempted from the Disputes and Quarrels it may too probably draw upon us.

6^{thly}. Because this Treaty differs from the *Quadruple Alliance*, upon which 'tis pretended to be chiefly founded, in some Points that seemed to be thought essential by ourselves, as well as by the Kings of *France* and *Spain*, as far as we can judge by the Stipulations of former Alliances, particularly in that of introducing Spanish Troops instead of Neutral into *Tuscany* and *Parma*, and by stipulating that those Troops shall remain there till Don Carlos and his Successors are secure and exempt from all Events; which, from the Nature and Extent of human Foresight, we think, the warmest Advocates for the Treaty must allow is in effect to say, they are to remain there for ever.

7^{thly}. Because the Alterations in this Treaty, from that of the *Quadruple Alliance*, are made not only without the Consent of the Emperor, but we fear he will

interpret it, since he has not the Compliment paid him of being invited into it, almost in defiance of him? and if this Treatment of him should unhappily alienate his Friendship from us, we think we should, as good *Englishmen*, have great Reason to lament the Loss of such an ancient, powerful and faithful Ally.

8thly, Because we apprehend there is an artful Omis-
sion throughout the whole Treaty of any plain and ex-
press Stipulation to secure to us our Right to *Gibraltar*
and *Minorca*; which, however willing we are to at-
tribute it rather to the superior Skill of the *Spanish* Ma-
nagers, than to any Want of Zeal for their Country in
our own, is an Error that we fear will leave our Posses-
sion of those important Places too liable to future Ca-
vils; and we think the *Spaniards* could not, with the
least plausible Pretence of Reason, have refused to as-
certain our indubitable Right to them, in as strong and
explicit Terms as we have declared ourselves Guarantors
of the Right, Possession, Tranquillity and Quiet of the
Italian Dominions allotted to *Don Carlos* and his Suc-
cessors, since we have had the Complaisance to admit
the *Spaniards* to discuss their Pretensions for the Restitu-
tion of the Ships taken in the Year 1718, though their
Right to that Compensation was as effectually secured to
them, as it can be pretended ours is to *Gibraltar* and
Minorca, by those general Words that renew and con-
firm all former Treaties.

9thly, Because his Majesty himself, by his Speech
from the Throne, seems not entirely free from Appre-
hensions of new Troubles being still likely to arise in *Eu-
rope*, even in resentment of the present Engagements;
and if he thought this Peace had settled the publick
Tranquillity upon a lasting Foundation, we are confi-
dent his paternal Goodness would have inclined him, by
a further Reduction of Troops, to have given more
Ease to his People, who had long groaned under the
heavy Burthen of Taxes, almost insupportable, and a
large standing Army, and have had all their Grievances
increased by a pernicious Interruption of late of that
flourishing Commerce, without which they can neither
be happy at home nor respected Abroad.

10thly. Because it appears to us, after the most mature Consideration of all Particulars, that we are much farther obliged than we were before, and than we think we ever ought to be, or meddle in Disputes about Territories at a great Distance from us, and in which our National Interest seems no way concerned; and since one of the principal contracting Parties in that Alliance upon which this is built is not only left out of it, but, as we think, there is Reason to believe extremely disobliged by it; and since it seems impossible to make the Introduction of *Spanish* Troops into *Tuscany* and *Parma*, even by the most prevailing Application we can use, consistent with the Dignity and Quiet of those Princes, whose Towns they are to garrison; we own our selves upon the whole, incapable of discerning either the Equity or Policy of this Treaty, which we fear will not enable us either to recover what we have lost, or long to preserve quietly and undisturbed what we yet possess; and which, we fear, instead of extricating us out of those Difficulties that we have of late been involved in, and which have been owing in a great measure, in our Judgment, to the Incapacity of those Ministers, by whose Counsels we have been entangled in a Labyrinth of unnecessary, if not prejudicial Treaties and Engagements, will probably be the melancholly Occasion of fresh Disturbances, and bring upon us, already too much impoverished, the Misery and Confusion of a War, which if once kindled, we are convinced, it will be as difficult to know the End, as to determine the Success of such a fatal Event.

Scarsdale,

Beaufort,

Gower,

Bedford,

Tbanet,

Anglesey,

Coventry,

Huntingdon,

Bruce,

Boyle,

Bathurst;

Foley,

Bridgewater,

Plimouth,

Strafford,

Northampton,

Abingdon,

Warrington,

Montjoy,

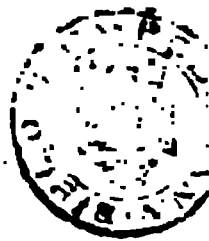
Aylesford;

Middleton,

Bristol,

Willoughby de Broke;

Oxford & Mortimer.



Die Luna 16^o Martii, 1729.

The House being moved, That the Bill entitled, *An Act for punishing Mutiny and Desertion, and for the better*

Better Payment of the Army and their Quarters, be read a second time on *Friday* next,

The same was objected to, and a nearer Day being proposed,

Contents 19 After the Debate, the Question was put,
Not Cont. 28 whether the said Bill shall be read a second Time on *Friday* next?

It was resolved in the Negative.

Dissentient

Because we conceive, that the Consideration of the State of the Nation, which is appointed for next *Thursday*, ought rather to precede than follow that Deliberation, which will naturally arise upon the Bill of Mutiny and Desertion, concerning the keeping up in time of Peace a standing Army, and the Method of governing that Army, if any shall be judged requisite; which is a Subject of such Importance, that we think hardly any thing of more Moment can fall under our Considerations or that more requires the clearest Light that can be had in order to form a Judgment upon it, not unworthy a *British House of Peers*, zealous for that Freedom which has been delivered down to them from their Ancestors,

| | | |
|-------------------|-------------------|-------------------------------|
| <i>Strafford,</i> | <i>Aylesford,</i> | <i>Norhampton,</i> |
| <i>Hereford,</i> | <i>Abingdon,</i> | <i>Foley,</i> |
| <i>Beaufort,</i> | <i>Boyle,</i> | <i>Oxford & Mortimer.</i> |

Die Jovis 19^o Martii, 1729.

The House being moved, That an humble Address be presented to his Majesty, that he will be graciously pleased to order to be laid before this House a List of all Pensions payable by the Crown,

And a Question being stated thereupon,

Contents 30 The previous Question was put, whether
Not. Cont. 83 that Question shall be now put?

It was resolved in the Negative.

Dissentient

1st, Because, we think, this Question ought to have been put and passed in the Affirmative, since no Instance could be given, that the List of Pensions was denied, when called for by either House of Parliament; and we cannot imagine there can ever be a more proper Time

to submit to the Crown for that List to be laid before the House, when they are to enter upon the Consideration of a Bill which is calculated to prevent the Members of the House of Commons for the future from sitting or voting under any undue Influence.

But, because, we conceive, the Refusal of complying with this Question will be misinterpreted without showing whether the Bill shall pass or be rejected; for, in the Case, it will give just Reason to believe the List of Persons was filled with Members of the House of Commons; and tho' this House would concur to prevent the Bill, they were tender of exposing the Names of particular Persons: In the other Case, it would raise a Suspicion, that there were too many Members of this House who were upon the List; which Asperision ought, we conceive, to have been obviated, by producing the List, and making them publick as in former Times has been frequently done.

| | | |
|---------------------------|--------------------|-------------------|
| <i>Perkins,</i> | <i>Country,</i> | <i>Thurst,</i> |
| <i>Exmouth,</i> | <i>Litchfield,</i> | <i>Strafford,</i> |
| <i>Fair,</i> | <i>Shrewsbury,</i> | <i>Gower,</i> |
| <i>Colindale Avening,</i> | <i>Battersea,</i> | <i>Hereford,</i> |
| <i>Longton,</i> | | |

Die Sabbati 21^o Martii, 1729.

First was read a Bill, entitled, An Act for making more effectual the Laws in Being for disabling Persons from being chosen Members of, or sitting or voting in the House of Commons, who have any Pension during Life, or for any Number of Years, or any Office holden in Trust for them, by obliging all Persons hereafter to be chosen to serve for the Commons in Parliament to take the Oath therein mentioned.

It being proposed to commit the Bill,

After long Debate thereupon,
 The Question was put, whether this
 Bill shall be committed?

It was resolved in the Negative.

Dejection.

Because all Objections against particular Clauses of Expressions in the Bill would have been regularly the Subjects of Debate in a Committee, and might have been

been there removed, if it should have appeared necessary, by making such Amendments to the Bill as the Wisdom of the House should have thought proper.

2dly, Because we conceive the general Design of this Bill to be highly reasonable, and of the greatest Importance to the Constitution of Parliaments; and are therefore extremely concerned it should not receive even the Countenance of a Commitment, when *the House of Commons*, who alone would have been immediately affected by it, had passed it, as we apprehend, with so much Regard to their Country, and so much Honour to themselves.

3dly, Because this Bill does, in effect, enact nothing new, since it only enforces the Observation and prevents the Evasions of former Laws, which were judged necessary for the Publick Good by so many Parliaments, and which we do not apprehend that our Experience since has given us Reason to look upon as less necessary for the same Purposes at this Time: By one of those Laws no Person, who has a Pension from the Crown during Pleasure, can sit in *the House of Commons*; but the Effect of this Law was, or might have been evaded, in great measure, by Grants of Pensions for certain Terms of Years, wherefore we presume that Examples have not been wanting. To remedy or prevent this Abuse, it was enacted by another Law, that no Person, who enjoys a Pension from the Crown for any Number of Years, shall sit in *the House of Commons*, under certain Penalties therein mentioned; but the effect of this Law likewise is, or may be entirely evaded several ways; it is or may be evaded by giving occasional Gratuities or making annual Presents, which will not be construed to fall under the Denomination of Pensions, and which are, however, in their Nature, and must be in their Effect, manifestly the same; it is or may be evaded also by the Difficulty of discovering and convicting those who presume to break it, since there is Ground to believe, by what has happened lately in this House, as well as on some other Occasions, that the Commons would find it difficult to obtain those Accounts which can alone shew what Pensions are paid to particular Persons. We observe further, that by the Laws now in Force all those
who

who hold certain Offices therein specified, as well as those who hold any Offices erected since that Time, are made incapable of sitting in *the House of Commons*; and that whoever accepts of any Office or Employment under the Crown cannot sit in that House till he has been re-elected: Now it appears to us, that all those good and laudable Provisions may be render'd fruitless; that *the House of Commons* may be filled with Persons who are by Law incapable of sitting there; that the Electors may be deprived of that reasonable Option which the Law has given them, whether they will trust the same Person to represent them, after he has accepted an Employment, whom they elected to represent them when he had none; and all this may be effected by the single Expedient of getting an Office or Employment to be held by some Person who is not a Member of *the House of Commons*, in Trust for one who is. We shall not determine on publick Fame or private Suspicion, whether all or some of these Abuses and Evasions of so many Acts of Parliament have prevail'd or not; but since it is evident, that they may be easily introduced under a corrupt Administration, we must be of Opinion, that a Law which would prevent them as effectually as, we believe, the Bill sent up by the Commons would have done, could not have met with too great Encouragement from this House, nor have been passed too soon.

4^{thly}, Because it appears to us, that the Arguments used against this Bill, drawn from the Necessity or Expediency of preserving an Influence to the Crown by the Power of rewarding, are either not at all to the present Purpose, or else are applied to prove, that an Influence guarded against by so many solemn Acts of Parliament should be admitted by the Connivance of Parliament; and, we think, it would be much more for the Honour of this House, if these Arguments were of real Weight, to be prevailed upon by them directly to repeal the Laws above-mentioned, than, by rejecting a Bill designed to render those Laws effectual, to seem, as we apprehend, to approve all the Evasions of them, which have been or can be invented and put in Practice.

5^{thly}, Because we think, that altho' this Bill tends to restrain any legal and dangerous Influence over *the House of*

of Commons, yet it leaves such an Influence entire to the Crown as will appear at least sufficient, when we consider that there are in the present *House of Commons* hardly less than two hundred Members who hold such Offices and Employments under the Crown, as would have continued to be tenable by them, if this Bill had passed; and even the Power of granting Pensions for Life to Members of Parliament openly would have still remained in the Crown.

6^{thly}, Because, strictly speaking, all Influence over either House of Parliament, except that which arises from a Sense of those Duties which we owe to our King and Country, are improper; and the particular Influences which this Bill was intended to prevent are not only improper, but may, and naturally must, in Course of Time, become extremely pernicious both to the Crown and to the People; for, first, altho' this Influence appears to be that of the Crown, it may become virtually that of the Minister, and be applied to deceive the Prince as well as to oppress the People, if ever a corrupt Minister should have the Disposition of Places and the Distribution of Pensions, Gratuities, and Rewards; he may create such an Influence as shall effectually deprive the Prince of the great Advantage of knowing the true Sense of his People; and a House of Parliament being prevailed upon to approve such Measures as the whole Nation dislikes, so may be confirmed in the Pursuit of them, and for the Sake of an unworthy Servant, lose the Affections of his People, whilst he imagines that he both deserves and possesses them. In the next Place, if ever this improper Influence should obtain a certain Degree of Strength, these terrible Consequences must inevitably flow from it, That the worst Proposals for the Publick will be the most likely to succeed, and that the weakest Ministers will be the best supported; the Reason whereof we take to be extremely plain, since this improper Influence may be directed to any Purpose whatsoever, and will always be most exerted where it is most wanted, that is, in the Support of ill Measures and weak Ministers.

7^{thly}, Because we agree, that as National or other Circumstances have exposed the Crown to any new Dan-

ger, the Security of Fidelity and Allegiance given by the Oaths of the Subjects to the Crown has been increased from Time to Time; and we therefore think, that, by a Parity of Reason, some greater Security than was formerly exacted should be now given to the Nation, by their Representatives, for a faithful Discharge of the Trust reposed in them; because this Trust, which is the same as it was in every other Respect, is come to be much greater than it was, in Respect to those heavy Taxes which have been for many Years past, and which, as we fear, must be for all succeeding Times annually laid by Parliament on the People, as well as to those immense Debts which have been contracted, and which we apprehend to have annually increased upon the Nation: The Service of *the House of Commons* was formerly a real Service, therefore often declined and always paid for by the People; it is now no longer paid for by the People, and so far from being declined, that it has been courted and sought after at great Expence: How far these Considerations, together with that of the vast Increase of the Civil-List Revenue, and of the Debts contracted on it in former Reigns, deserve to enforce the Reasons for exacting some new and stronger Engagements from the Members of *the House of Commons* to those whom they are chosen to represent, is, we think, sufficiently obvious.

S^{chly}, Altho' it must be allow'd, that the multiplying of Oaths, without great and evident Reasons, ought to be avoided, yet an Oath being the most solemn Engagement which Men can be laid under, we judge it, on that very Account, the more proper to be imposed upon this important Occasion; nor will the Probability of its being broke through by the Iniquity of Mankind be an Argument of greater Force against this Bill, than against any other Law made for preventing any other Crime whatsoever.

Huntingdon,

Bruce,

Plimouth,

Montjoy,

Northampton,

Strafford,

Ker,

Sunderland,

Berkshire,

Aylesford,

Litchfield,

Maynard,

Bristol,

Batburst,

Beaufort,

Warrington,

Gower,

Abingdon,

Herts

Hereford, *Foyle,* *Boyle,*
Craven, *Coventry,* *Thanet,*
Oxford and Mortimer, *Masbam,*

Then the Question was put, whether the said Bill shall be rejected ?

It was resolved in the Affirmative.

Dissentient'

1st, Because the evident Intention of this Bill was only to make a further Advance towards gaining that good End which the Legislature hitherto has, we fear, too weakly endeavoured to compass, the Prevention of Corruption, which, it must be owned, is an Evil of so mischievous a Nature, so apt to spread and grow epidemical; that a wise and virtuous People will apply the most timely and effectual Remedies that can be devised for the Cure of it, since a Nation once infected must soon get the Better of so contagious a Distemper, or it will soon get the Better of the Nation.

2^{dly}, Because we can hardly frame in our own Minds a more reasonable Method than the Sanction of such an Oath of Purgation as was to have been taken by all the Members of *the House of Commons*, if this Bill had passed into a Law, to preserve that Part of the Legislature pure and free from that Kind of Bribery, which seems, from the Nature of it, to be the most pernicious, a secret and unavowed Pension; or what, however different in Name, would, we fear, be too much the same in Effect, an Office in Trust, or a clandestine Gratuity.

3^{dly}, Because the Act of Parliament which passed last Year, tho' it contains some excellent Provisions against Bribery and Corruption; and ought, in our Opinion, ever to be held sacred, inviolable, and a fundamental Part of our yet free Constitution, wanted still something, as we judge, to make it more complete, by establishing an Oath for the Elected as well as the Electors; which being done by this Bill, we cannot but look upon it to have been a seasonable and necessary Addition to those Laws already enacted for the same Purpose, in Order to guard us more strongly against the powerful and malignant Influence of wicked, aspiring, and despotic Ministers, who can invent no Artifices so likely to subvert the Liberties of the People, as by corrupting those who are *chosen to defend them.* ably.

us, Because, we apprehend, *the House of Commons* may think themselves unkindly treated by us for rejecting a Bill sent from them of great Consequence, by which they designed only to secure their own Honour and the Nation's Liberties, and that concerned only their own Members, without allowing it even the usual Forms of a *Commitment*; and the rest of our Fellow-Subjects will, we fear, hardly be charitable enough to think that one House of Parliament could be perfectly unbiassed, when it refused to proper an Expedient to make, in a great Measure, the other so.

Essex,

Gloucester,

Lincoln,

Northampton,

Warwick,

Worcester,

York,

London,

Westminster,

Berkshire,

Stratford,

Aylesford,

Braze,

Maston,

Maynard,

Cowtry,

Foley,

London, Westminster, Tower,

Litchfield,

Kir,

Sunderland,

Bristol,

Craven,

Huntingdon,

Abingdon,

Northampton

Die Lune 22. Martii, 1729.

His Majesty's Bill, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Essex,

Because we think, that so large a Number as is proposed to be kept up in this Kingdom for this Year, by this Bill, is not necessary for our Safety, as far as we can judge from the present Conjunction of Affairs; and that a standing Army in Time of Peace must be always burdensome to the People and dangerous to their Liberties, for Reasons often given by several Lords, and remaining upon the Journals of this House, to which we choose to refer, rather than repeat them, in Order to prove a Proposition that we think almost manifest in itself, or at least may easily be maintained by Arguments undeniably convincing, and so obvious, in our Opinion, that they need not occur upon the least Reflection to every Englishman who loves his Country and his Freedom.

Black

Montjoy,
Strafford,

Abingdon,

Beaufort.

Die Veneris 17^o Aprilis, 1730.

The Order of the Day for taking into Consideration the State of the Nation being read,

It was moved to resolve, That the maintaining of twelve Thousand *Hessians* in the Pay of *Great-Britain*, for the Year 1730, is burthensome and unnecessary.

Contents 21 After Debate, the Question was put Not Cont. 80 thereon? And,

It was resolved in the Negative.

Dissentient

1st, Because, we think, the maintaining Foreign Troops in our Pay, where we have no Territory, and not only when we have no War, but immediately after a Peace concluded with one of the most considerable Powers in *Europe*, whilst we are in Alliance with *Holland*, and are in strict Friendship with *France*, the most considerable Power of all, is a Policy, that before this Instance of it cannot be parallel'd, as far as we can collect, in all our Annals, and must be owing to the Advice of Ministers less cautious and less concerned for the true Interest of this Kingdom than their Duty obliged them to be; and we cannot, out of the Regard we owe to our Posterity, consent to it.

2^{dly}, Because the Importance of the Service, in which they are design'd to be employ'd, does no Way appear to us, and we fear it may create an Apprehension that they may be intended for Purposes that do not concern *Great-Britain*; which is a Jealousy (however ill founded) that we are persuaded from his Majesty's Goodness he will always be inclined to prevent for his Peoples Sake, and his Counsellors, we think, ought, if possible, to prevent for their own.

3^{dly}, Because, we think, it would be an unreasonable Burthen upon the People at any Time, but we look upon it to be particularly so at this, whilst we are still heavily loaded with an immense National-Debt, severe annual Taxes, oppressive and perpetual Excises, and have had of late the additional Misfortune of an unusual and excessive Dearness of almost all Necessaries for Living.

whilst

whilst our Commerce, we cannot but fear, has been declining for some Years, and many valuable Branches of it running into other Channels, from whence we have but little Expectation of ever deriving them again into our own; when the dubious and unhappy Situation of Affairs, under which we have laboured of late, has reduced many substantial Merchants to Poverty, and has been productive of other ill Consequences that, we apprehend, will be sensibly felt for some Time by the whole Nation; when the Sum which is to be allowed for the Maintenance of these Troops is at least Six-pence in the Pound on every landed Man's Estate in *England*; and when we avowedly pay, at the same Time, greater Subsidies to other foreign Princes than our present Circumstances, in our Opinion, can well bear, or than any wise Reason of State seem to require.

And, Because it does not appear to us, that his Majesty, either in any Speech or by any Message, has demanded any Supply for what seems to us so extraordinary a Charge; and he seems not to think them necessary for our Safety at home, since he has lately disbanded some of our own; and we cannot find we are under any direct Stipulation to maintain them for the Safety of our Allies, abroad, who notwithstanding the various Engagements and Multiplicity of Treaties, with which we have, within the Compass of a few Years, most incautiously, as we fear, entangled ourselves, have no Right to require Succours from us, till by some Molestation or hostile Attack the publick Tranquillity is disturbed; which Misfortune may still, as we hope, be prevented, if such Measures are taken as it becomes able and upright Statesmen always to pursue, if the Reputation of our Wisdom and Power is alone sufficient, as it ought to be, to procure us equal and useful Alliances, and it always will be, when the Affairs of the Kingdom are administered as they ought to be, and if to save our Friends from Dangers that perhaps are only imaginary, we do not run into real ones ourselves.

*Berkshire,
Scarpsdale,
Stratford,
Maynard,*

*Coventry,
Huntingdon,
Northampton,
Abingdon,*

*Montjoy,
Craven,
Plymouth,
Litchfield,
Boyle,*

Boyle,

Aylesford.

Gower.

Oxford & Mortimer, Willoughby de Broke,

Die Martis 2^o Martii, 1730.

Hodie 2^a vice lecta est Billa, entitled, An Act for making more effectual the Laws in Being for disabling Persons from being chosen Members of, or sitting or voting in *the House of Commons*, who have any Pension during Pleasure or for any Number of Years, or any Offices holden in Trust for them, by obliging Persons hereafter to be chosen to serve for the Commons in Parliament to take the Oath therein mentioned.

Proposed to commit the Bill.

After long Debate, the Question was put, whether this Bill shall be committed?

It was resolved in the Negative.

Then the Question was put, whether the said Bill shall be rejected?

It was resolved in the Affirmative.

Dissentient

1st, Because the Reasons which were enter'd on our Journals last Session for the Commitment, and against the Rejection of this Bill, can, in our Judgment, have nothing of Weight said against them, and, as we think, they want little to be added to them, but they seem to us to be strengthened upon this Occasion; and lest our second Refusal to concur with *the House of Commons* in what solely regards their own Members, and without any Arguments offered to them in a parliamentary Way for that Refusal, should be looked upon by them as an unkind, if not unprecedented Treatment, and should, in the Opinion of many disinterested Lovers of our ancient Frame of Government, too easily create in them a Resentment that might interrupt the Harmony between the two Houses, which is necessary for carrying on the most important Affairs of the Nation.

2^{dly}, Because the Commons seemed to think the Bill is wanted, and we are persuaded it is earnestly desired by the People, and so wisely contrived by a solemn and strict Oath of Purgation to guard against secret Corruption in that Place, where, if ever it should be prevalent, its Consequences would be most pernicious and extensive.
that

that we fear we should be exposed to some uncharitable Reflection, if we did not, in this most authentick Manner, the CONFIRMATION of Parliament will allow, from a numerous Trial, of under the Inspection of 10 mischievous and villainous spreading among others, give an undeniable Evidence that we are attacked with it ourselves.

THAT, JAMES A Member of Parliament, who is not entitled to receive a Gratuity for any Service which he is called upon to perform, may be conscious to himself, as we think, that he is guilty of an immoral Action; and therefore we conceive ourselves obliged not only in Honour, but in Conscience too, to yield our Assent to a Bill which we as we could observe upon the most material and useful Propositions, contained a proper Expedient, in this limited Monarchy, to preserve both the Independence and Integrity of elected Legislatures, and which we had reasonable Hope, would in a great Measure have prevented the Danger of an infamous Breach of Faith on the right Nature reported in every single Member of the lower House for the Benefit of the whole Community. which we think is a Crime that ought to be punished by all good Parties, and that we are bound to do so, as honest Citizens.

THAT, Since we cannot but, with Grief of Heart, lament the Loss of that Opportunity which, by enacting this Bill into a Law, we afford ourselves, his Majesty would have embraced with particular Satisfaction of demonstrating to all his Subjects, that he is incapable of allowing an improper Use to be made, by any of his Subjects, of that large Revenue which a Parliament, from beyond any Example of their Predecessors, so plentifully gave him, or of entertaining to himself the least Thought of the Prejudice of the Liberties or Properties of his People, by any illegitimate Influence on their Representatives.

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*Oxford & Mortimer, Ancaſter, G. S. Bathurſt.
Willoughby de Broke,*

Die Jovis 17^o Februarii, 1731.

A Meſſage was brought from *the Houſe of Commons* by Mr. Sandys and others, with a Bill entitled, *An Act for making more effectual the Laws in Being for diſabling Perſons from being choſen Members of, or ſitting or voting in the Houſe of Commons, who have any Penſion during Pleaſure, or for any Number of Years, or any Offices held in Truſt for them; to which they deſire the Concurrence of this Houſe.*

The ſaid Bill was read the firſt Time.

After Debate, propoſed to reject this Bill.

Moved, That the ſame be read a ſecond Time on *Tueſday* next.

Contents 25 }
Proxies 15 } 40
Not Cont. 78 }
Proxies 17 } 95

After further Debate, the Queſtion was put, whether this Bill ſhall be read a ſecond Time?

It was reſolved in the Negative.

Difſentient'

For the Reaſons enter'd in the Journals of this Houſe the two laſt Sefſions of Parliament, one the 21^{ſt} of *March* 1729, and the other the 2^d of *March* 1730.

Strafford,

Shaſteſbury,

Maynard,

Abingdon,

Litchfield,

Gower,

Craven,

Foley,

Maſbam,

Bathurſt,

Exeter,

Coventry.

Die Jovis 24^o Februarii, 1731.

A Meſſage was brought from *the Houſe of Commons* by Sir William Strickland, Secretary at War, and others, with a Bill entitled, *An Act for puniſhing Mutiny and Deſertion, and for the better Payment of the Army and their Quarters; to which they deſire the Concurrence of this Houſe.*

The ſaid Bill was read the firſt Time.

Propoſed, That the ſame be read a ſecond Time on *Tueſday* next.

After Debate, it was moved, That the ſaid Bill be not read a ſecond Time.

After further Debate, the Queſtion was put, whether this Bill ſhall be read a ſecond Time? And

It was resolved in the Affirmative.

Dissentient

Because we conceive, that no Countenance ought to be given to any Act that may possibly lessen the Affections of the People to the King, they being his surest Guard; and we apprehend, that the keeping up, in Time of Peace, a greater Number of Forces than can be well governed by the established Laws, is inconsistent with the Notion of the Government of a free People.

*Abington,
Strafford,*

*Bristol,
Litchfield,*

Exeter.

Die Martis 7^o Martii, 1731.

The Order of the Day being read for the House to be put into a Committee of the whole House upon the Bill entitled, *An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.*

Proposed, That it be an Instruction to the said Committee, that the Number of Men specified in the said Bill do not exceed twelve Thousand.

Contents 27 After long Debate, the Question was put,
Not Cont. 88 whether such an Instruction shall be given to the said Committee?

It was resolved in the Negative.

Dissentient

1st, Because so great a Number of Troops as is established by this Bill was never before allowed by Parliament in Time of settled Peace, and no Reason was given in Opposition to the Instruction, but what, we conceive, must equally hold good in all future Times; for when can we hope to see a Session of Parliament opened with more satisfactory Declarations and stronger Assurances of Happiness and Security, than those contained in his Majesty's most gracious Speech from the Throne on the first Day of this Session: His Majesty is therein pleased to declare, that his Expectations are fully answered; that the general Tranquillity of *Europe* is restored and established; that the tedious Work is perfected and finished; that the Wounds which have been long bleeding are entirely healed; that the national Expence will be considerably lessened, and that the Nation shall reap the Fruits of his Endeavours. In such a Situation

of

of Affairs, we conceive, that we could not act consistently with his Majesty's gracious Disposition to his People, agreeably to the Honour of this House, nor with that Regard we must always have for the Liberties of our fellow Subjects, without endeavouring to reduce the Number of Troops specified in the Bill. *Abington.*

2dly, Because the settled State of Affairs at home and the great Duty and Affection his Majesty's Subjects have shewn to him on all Occasions should in our Opinion be a full Answer to all Arguments that can be drawn to justify the keeping up so great a Number of Troops, from any Apprehensions of a *Pretender* to the Throne; for if the present Circumstances of this Nation be compared with the Situation of Affairs after the Treaty of *Ryswick* or that of *Utrecht*, these Kingdoms will be found infinitely more secure in that Particular. In the first Period of Time, the late King *James* was living, who had an *Irish* Army in his Pay in *France*; many of his old Servants and Soldiers were then alive and active in *England* and *Scotland*; a potent Prince and Nation always supporting him, and ready at any Time to arm in his Cause: As to the second Period of Time, the *Pretender* was in the Neighbourhood of *France*, that the *French* King who had maintained him and his Family was still living, and the Protestant Succession had not then taken Place; yet in both these Points of Time, half the Number of Troops allowed by the present Bill was not only thought by Parliament, but by Experience found, sufficient for our Security: How little Foundation then does there seem to be for continuing such a Number of Forces at this Juncture, when the *Pretender* has been long removed beyond the *Alps*, and a Prince on the Throne of *France* who seems more intent to make his own Dominions flourish by Trade, than out of a restless Ambition to disturb his Neighbours! Sufficient Reasons may be drawn from the present Situation of Affairs in that Kingdom, as well as those of *Spain*, to increase our naval Force, but none, in our Opinion, for maintaining such an Army at Land; the present Royal Family is now (Gbd be praised) firmly seated on the Throne, and nothing can shake it but an Administration which shall venture to depart from the Principles on

which the Act of Settlement was founded; that Settlement was founded on Liberty, and by the Nature of Things must be coeval with Liberty.

3^{dly}, Because it has hitherto been thought the Happiness of our Situation, as an Island, that we have not had the same Occasion for Numbers of Troops to defend us as those on the Continent; to prevent the Inroad of their Neighbours, they have been obliged to keep up standing Armies, which have generally been the Cause of the Loss of their Liberties, and always proved the sure Means of fixing their Chains upon them.

4^{thly}, Because we are fully convinced that his Majesty will reign the more firmly in the Hearts of all his Subjects, the more he places his Confidence in them; and we conceive it to be an Indignity to him, to suggest that he cannot now be secure on the Throne, without the Assistance of a greater standing Force than ever his Royal Father was contented with in Times of less Tranquillity: Although it seemed to be the Tendency of some Arguments used against the Question, yet we can never be brought to believe, that this Nation is in Danger of being over-run by any Foreign Force; our Apprehensions are, that it only can be ruined and enslaved by a standing Army at home; and we are justly jealous from the Experience of former Times that the Crown itself, as well as the Liberties of the People, may be found at Length to be at their Disposal.

Lastly, We refer to the four first Reasons enter'd on our Journal the 24th Day of *February* in the Year 1717, signed by many Lords of this House.

| | | |
|--------------|--------------|----------------------|
| Boyle, | Litchfield, | Scarsdale, |
| Shaftesbury, | Exeter, | Ker, |
| Foley, | Craven, | Coventry, |
| Suffolk, | Tadcaster, | Carteret, |
| Bristol, | Northampton, | Bathurst, |
| Maynard, | Bridgewater, | Gower, |
| Twesdale, | Tbanet, | W.a. and Nottingham. |
| Aylesford, | Strafford, | |

Die Mercurii 29^o Martii, 1732.

The Order of the Day being read for the House to be put into a Committee upon the Bill entitled, *An Act for*
reviving

reviving the Duties on Salt for the Term therein mention'd.

Moved, That it be an Instruction to the said Committee, that they do receive a Clause to exempt all Salt used for manuring of Land from the Duties laid by the said Bill.

Contents 21 After Debate, the Question was put there-
Not Cont. 74 upon ? And,

It was resolved in the Negative.

Dissentient

Because it has been found by Experience, during the Time the Duties upon Salt were taken off, that great Improvements have been made in several Parts of the Kingdom, by using Salt in manuring of Land, but by the Revival of those Duties, without the Provision designed by this Instruction, there must be a total Stop put to all Improvements of that Nature; and we are convinced that in a few Years the Lands of *England* might have been raised, by the Use of this Manure, more than double what this Tax will produce to the Government; and we apprehend this to be a very improper Time to check the Industry of the People, and prevent their domestick Improvements, since, we fear, the national Wealth is not likely to be increased at this Time by any foreign Commerce.

Abingdon.

Scarsdale,

Shaftesbury,

Bridgewater,

Strafford,

Northampton,

Warrington,

Boyle,

Litchfield,

Tweedale,

Wa. & Nottingham,

Suffolk,

Gower,

Thanet,

Coventry;

Masham,

Ker,

Carteret,

Bristol,

Bathurst,

Moved, That it be an Instruction to the said Committee, that they do receive a Clause to exempt, from the Duties laid by the Bill all home-made Salt used in victualling of Ships.

Contents 21 After Debate, the Question was put
Not Cont. 75 thereon ? And,

It was resolved in the Negative.

Dissentient

1st, Because the Duties to be laid by this Bill on all home-made Salt used for victualling of Ships increases the Expence of the Royal Navy, and is a heavy Burthen upon the

the Trade and Navigation of the Kingdom, and will very sensibly affect the Merchants, already under great Difficulties by Reason of the Decay of Trade and the many grievous Losses they have sustained, and Hardships they have undergone, by Depredations, Seizures and Confiscations, too severely felt by most of the Traders of *Great-Britain*, and too publicly known to be doubted of.

2dly, Because this Duty upon our home-made Salt must occasion many of our Merchants to victual their Ships abroad, to the Diminution of the national Wealth, and to the great Detriment of the landed Interest of this Kingdom.

| | | |
|-------------------------------|---------------------|---------------------|
| <i>Strafford,</i> | <i>Scarsdale,</i> | <i>Litchfield,</i> |
| <i>W.a. & Nottingham,</i> | <i>Shaftesbury,</i> | <i>Bridgewater,</i> |
| <i>Tuxtedale,</i> | <i>Boyle,</i> | <i>Gower,</i> |
| <i>Suffolk,</i> | <i>Coventry,</i> | <i>Masbam,</i> |
| <i>Bristol,</i> | <i>Bathurst,</i> | <i>Warrington,</i> |
| <i>Ker,</i> | <i>Carteret,</i> | <i>Northampton.</i> |
| <i>Abingdon,</i> | <i>Thanet,</i> | |

Moved, That it be an Instruction to the same Committee, that they do receive a Clause to restrain any Person, during the Time he shall be concerned or employed in the Charging, collecting, levying or managing any of the Duties to be granted by the Bill, from being a returning Officer, or voting or influencing any Elector to vote in Elections of Members to serve in Parliament.

Contents 21 After Debate, the Question was put
Not Cont. 71 thereon? And,

It was resolved in the Negative.

Dissentient'

1st, Because the Officers employed in the Customs in the Excise, in other Branches of the Revenues, and in other Parts of the publick Service, are already vastly numerous; they compose, in Effect, a second standing Army, and are perhaps, in some Respects, more dangerous than that Body of Men properly so called; the Influence which they have in the Elections of Members to serve in Parliament has been too often felt to have been denied; and we presume, that Examples are not hard to find, where the military Forces have been withdrawn to create the Appearance of a free Election, and the standing

standing civil Forces of this Kind have been sent to take this Freedom away. Should we suffer this Invasion on the Freedom of Election to continue much more to increase, it will be easy, in our Opinion, to demonstrate, that one vital Principal of our present Constitution and the Freedom of the *British* Government must be lost, since *the House of Commons* might indeed afterwards be a Representative of an Administration, or of one single Minister, but could no longer be a true Representative of the People. We think ourselves obliged therefore to oppose the Growth of so great an Evil upon every Occasion; and we apprehend that every such Increase of the Officers of the Revenue, as this Bill imports, is strictly, such an Occasion; and therefore we think the Instruction should have been agreed to, that we might not add to that Evil which, we conceive, is already too great.

2dly, Because from the very Institution of Parliaments, at least from the Time when they began to be composed and held in the Manner and for all the Purposes they now are, the principal Aim of the Enemies of publick Liberty has been to enable the Crown to govern without them, or to corrupt their Members, or to destroy the Freedom of their Elections: From the same Time we may date the constant Care which has been taken by the Friends of the Publick. Liberty to ward off those several Dangers; and the Laws which appear in our Statute Books for regulating Elections of Members to serve in Parliament, as well as the Qualifications of the Electors and the Elected, are standing Monuments, which shew how early those Dangers began, and that the Opposition to them began as early: The Form of our Government, as it has been settled since the Revolution, leaves no longer Room to apprehend the first of the Attempts mentioned; the Wisdom of this House has seemed, by rejecting the Pension Bill three Times successively, to think the Laws already in Force sufficient to prevent the Second; but the Third must, in our Opinion, be looked upon to be a growing Danger, and to require extreme Watchfulness against the Consequence of it, as long as the many heavy Taxes, and the present Management of the publick Revenues keep up in all

Parts of the Nation such an exorbitant Number of Receivers, Supervisors, Collectors, and other Tax-gatherers, who are maintained by the People, but are solely directed by the Treasury. The State of Property, and the Nature of Tenants anciently, the real as well as pretended Prerogatives in times more modern, gave to the Crown, among other Influences, a very great one in the Elections of Members of Parliament. Thanks be to God, and to the Virtue of our Forefathers, this State of Property is altered, these Tenures are abolished, and these Prerogatives are either taken away or limited, fined and fixed by Law; there will remain therefore no Means of destroying the Freedom of Elections, except those of Corruption, which we hope, may be rendered ineffectual, by the Law to which this House consented two Sessions ago, to the entire Satisfaction of the whole Nation; unless the Dangers we are apprehensive of should arise by establishing such Augmentations of the Number of Officers employed in the Revenue, without Restrictions to prevent them from being returning Officers, or voting or influencing any Elector to vote in future Elections.

3dly, Because we apprehend that if any such Augmentations without the aforesaid Cautions are suffered to be made, greater Danger will arise, from this new Influence, to the Freedom of Elections, and by consequence to the Constitution of our Government, than ever did arise when the Prerogative was carried to the utmost height, and the Influence of the Crown was the most severely felt and complained of; we apprehend that this exorbitant Number of Officers may, one time or other, effect the Destruction of those Liberties for the Preservation of which the Taxes were given, which these Officers are employed to collect. We apprehend, that by consenting to the Increase of these Officers, without Restriction, we shall contribute to such an Influence as may prove more fatal to Liberty than any of those which were formerly acquired, because it will be the Effect of a parliamentary Establishment, and will make its Way the more surely, by making it indirectly, secretly, and silently.

Stratford,

Strafford,
Warrington,
Litchfield,
Coventry,
Tweedale,
Gower,
Thanet,

Scarsdale,
Bristol,
Boyle,
Masbam,
Wa. & Nottingham,
Carteret,

Shaftesbury,
Bathurst,
Saffolk,
Bridgewater,
Ker,
Northampton:

Die Veneris 32° Martii, 1732.

Hodie 3^a vice lecta est Billa, entitled, An Act for reviving the Duties on Salt for the Term therein mentioned.

After Debate, the Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because this Tax hath been found, by long Experience, to be most grievous for the Subject; for which Reason the Parliament lately, upon the Recommendation of his Majesty from the Throne, chose to repeal this; and the most oppressive Part of the Sinking-Fund, for the Ease and Relief of the Subject: It may therefore seem very extraordinary, that in so short a Time, before the People have received much Benefit from it, in a Time of Peace, and without any Necessity (that appears to us) and when the Supply might be raised with less Charge and Inconvenience within the Year, we should have recourse to a Tax too odious and oppressive to be continued, even for the Payment of the National Debt.

Abingdon.

2^{dly}, Because we have Reason to believe the Parliament would not have cut off such a Branch of the Sinking-Fund (which has been esteemed so sacred and necessary) if it could have been thought that it could ever have been applied to any other Use; and it may give cause to apprehend, that the rest of the Sinking-Fund may, by the same Means and to the same Purposes, be occasionally diminished, till it is reduced too low to satisfy the publick Creditors, and discharge the immense Debts of the Nation: Which Opinion (if it should once prevail) would effectually destroy the Publick Credit, and involve

volve the King and Kingdom in inextricable Difficulties.

3dly, Because this Tax, instead of being applied to the Payment of our Debts, occasions the Increase of them; and instead of raising the Supply within the Year, which is always most eligible, even in Time of War, if it can be done, and which Method (if it had been taken at first and pursued) had left the Nation free and unincumber'd to us and our Posterity, we now mortgage the Revenue, in Time of Peace, for a Term of Years, tho' but a short one, and yet what the People may notwithstanding apprehend will be continued, and be made a Precedent in all Supplies for the future; which Method of anticipating the Revenue must necessarily weaken the Government, by depriving it of the Means necessary for its Support in case of any sudden Emergency of War, or other publick Calamity, and in consequence throw all the Weight of the Publick Expence upon the Landed Interest, which will pay dear for the Relief of one Shilling in the Pound only in this Year's Land-Tax.

4thly, Because it is liable to Frauds and great Deductions, which make the real Produce into the *Exchequer* little, tho' it raises much upon the People; and is a great Discouragement to the Fishery, and a Burthen upon the Trade and Navigation of the Kingdom.

5thly, Because it is not only a great Burthen to the Landed Estates, and particularly to the Grassing-Farms, but even a Prohibition to all Improvements of Land, in those Parts where it is used for Manure.

6thly, Because as this Excise is proposed without any apparent Necessity, or Convenience to the Publick, or even any Real Advantage (as is suggested) to the Landed Interest, it must necessarily create a Jealousy in the People, that it is a Step and Introduction to a more general one; than which nothing can be more odious and dreaded, but a standing Army, that must necessarily attend the Execution of it.

7thly, Because *Scotland* being charged only with one Shilling *per* Bushel on Salt, which is not a third Part of the Duty, introduceth an Inequality in Trade, contrary to that which seems established by the Articles of the Union,

nion, and tends to the keeping up invidious Distinctions between the two Parts of the united Kingdom. It may justly be doubted, if the Exemption from this Duty at the Time of the Union is a sufficient Reason for the like now, since the Duty was appropriated to the Debts of *England* contracted before, and is now revived for the current Service of this Year; yet, under the Appearance of Favour, the People of *Scotland* will, at least, pay in three Years the full Sum of 24,672 *l.* for the saving of the one Shilling in the Pound Land-Tax, in the current Year, amounting to less than 12,000 *l.* So that *Scotland*, instead of being eased by this Bill, is doubly loaded and restrained in her Trade upon Account of this Distinction; and all the Bounties upon Exportation, payable now there by Law, are render'd precarious; and consequently this Tax should not, in our Opinions, have been imposed.

8thly, Because the Subjects are laid under grievous Penalties by this Bill, the incurring of which cannot, in many Cases, be prevented, notwithstanding the strictest Care; whereby the most innocent may be subjected to the Discretion and Mercy of the Commissioners and Officers of the Revenue, wherein the greatest Partiality may be exercised.

9thly, Because all Taxes which require a Multitude of Officers to be employed in collecting them, and which give thereby both Occasion and Pretence to quarter Numbers of useless Subjects on the Labour and Industry of others, become so chargeable and oppressive, that they are hardly borne in the most arbitrary Governments; and that they seem repugnant to the very Nature of a Government constituted like ours. The sole Expence of levying this Tax, added to the Interest, which must be paid for Loans made on the Credit of it, will appear, on a fair Calculation, sufficient to discharge, in a competent Number of Years, the Principal and Interest of the whole Sum for which the Supply is given. In point of good Husbandry therefore, we think, that a Tax of this Nature should be rejected in any Country where Reason is not subdued by Force, and where private Will has not been yet received for Law; but in a limited Monarchy, like this of *Great Britain*; where
the

the Powers of the Constitution are divided and ballanced, and yet the whole executive Power is intrusted to the Prince, we apprehend, that these frequent and great Augmentations of the Number of Officers appointed, directed and paid by the Authority of the Crown, tho' employ'd in collecting and managing Revenues, which are no Part of the Revenue of the Crown, ought to be esteem'd dangerous to Publick Liberty, and for that superior Reason to be eternally avoided.

Bridgewater,

Shaftsbury,

Carteret,

Bathurst,

W. and Nottingham,

Coventry,

Tewkesdale,

Strafford,

Northampton,

Gower,

Kor,

Scarfsdale,

Warrington,

Litchfield,

Tadcaster,

Bristol.

Die Veneris 23. Februarii, 1732.

Hodie 1^a vice lecta est Bill, entitled, An Act for making more effectual the Laws in being for disabling Persons from being chosen Members of, or sitting or voting in *the House of Commons*, who have any Pension during Pleasure, or for any Number of Years, or any Offices held in Trust for them.

After Debate, propos'd to reject the Bill.

Moved to order, That the same be read a second time on *Tuesday* next.

Contents 25 } 39

Proxies 14 } 39

Not Cont. 68 } 82

Proxies 14 } 82

Dissentient'

After further Debate, the Question was put, whether the said Bill shall be read a second time?

It was resolv'd in the Negative.

For the Reasons enter'd in the Journals of this House the 21st of *March* 1729, and the 2d of *March* 1730.

Scarfsdale,

Northampton,

Foley,

Bathurst,

Oxford and Mortimer,

Coventry,

Bridgewater,

Gower,

Montjoy,

Aylesford,

Bruce,

Berkshire,

Strafford,

Litchfield.

Die.

Die Jovis 8^o Martii, 1732.

Hodie 3^a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

After Debate, the Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

For the Reasons enter'd on the Journal last Session against the Number of Men then and now to be established; which Reasons we refer to, and think the Circumstances of Time now do by no means lessen the Force of them.

*Bruce,
Montjoy,
Batburst,
Masbam,
Oxford and Mortimer,*

*Strafford,
Litchfield,
Bristol,
Coventry,*

*Gower,
Northampton,
Foley,
Berkshire.*

Die Mercurii 30^o Maii, 1733.

Moved to resolve, That it is the Opinion of this House, that the Produce of the Sinking Fund should be applied for the future towards redeeming such Taxes as are most grievous to the Subject, oppressive to the Manufacturer, and detrimental to Trade.

Which being objected to, and Debate had concerning the same.

The Question was put upon the said Motion?

And it was resolved in the Negative.

Dissentient

1st, Because we conceive, that it would have been extremely for the Honour of the House, and for the Service of the Publick, to have enter'd this Resolution in our Books at a Time when we have so far consented, in Compliance with *the House of Commons*, to a Bill by which near half a Million, collected from the Sinking-Fund in several Years, is appropriated to the Service of the present Year.

2^{dly}, Because the Sinking Fund being composed of the Surplussages of Funds originally granted as Securities

to the Creditors of the Publick, and these Surplussages arising chiefly from a Reduction of Four *per Cent.* of the Interest granted them for the most part at the Rate of Six *per Cent.* we cannot but think, that this Saving ought to be applied, according to the most inviolable Rules of Equity, and according to the known Design, and the repeated and solemn Engagements of Parliament, to a gradual Discharge of the Principal due to these Creditors of the Publick, who have parted with a Third of their Revenue in this View, and upon this Confidence.

3dly, Because we apprehend, that the Method of applying large Proportions of the Sinking-Fund to the Service of the current Year must, in effect, perpetuate the Debts and Taxes which lie on the Nation, and is therefore injurious to the Publick. Had this whole Fund been strictly applied from the Beginning to its proper Use, we think it may be demonstrated, not only that much more of the National Debt might have been discharged, but that those Taxes which are most oppressive to the Poor, and most prejudicial to Trade, might have been already taken off, since upwards of 480,000 *l. per Ann.* belonging, as we conceive, to this Fund, has been applied to other Uses.

4thly, Because we apprehend, that it cannot be for the Good of the Nation, nor consequently for the Honour of Parliament, to separate those Interests in the particular Approbations of the Sinking-Fund, and which were so wisely and so justly united in the original and general Design of it, the Interest of the Nation, and the Interest of the Proprietors of the Nation's Debts; the former was intended to be eased; and for that purpose the latter were to be cleared as soon as possible: If it be said therefore, that the Creditors of the Publick do not desire to be cleared no faster than they are in the present Method, nor object to the Application of any Part of the Sinking-Fund to other Uses, we apprehend that no Argument, which ought to avail in a House of Parliament, can result from such an Assertion; because we conceive, that in every Instance of this Kind, in every Application of the Sinking-Fund, or of any Part of it, we are to look on ourselves as obliged not only to be just

to the Creditors of the Publick, but to be careful of the Ease of the People, to keep the particular and general Interests united, as they originally were, and not to sever them : If in fact, the Creditors of the Publick do not object to the Application of such large Proportions of the Sinking-Fund to other Uses than to the Payment of the Debts, it may be said, that no Injustice is done them by any such Application, according to the known Maxim, *Volenti non fit injuria* ; nay, it may be deemed for their private Interest to have such beneficial Mortgages continued to them as long as possible ; and they may desire therefore not to be cleared any faster than they are likely to be in the present Method : But we apprehend, that it cannot be for the Interest of the Nation to have these Mortgages continued any longer than is absolutely necessary to discharge the Debts secured by them ; and that we, by consequence, who are Trustees for the People, ought to desire and endeavour that the Debts may be discharged, and the Loan of Mortgages be removed as soon as possible. In this manner publick Faith would be strictly kept, Justice would be done, and no Injustice could be done to the Creditors of the Publick : In the other Method, and by diverting such large Portions of the Sinking-Fund, if it should be granted that no present Injustice was done to the Proprietors of the Publick Debts, yet it must be allowed, as we apprehend, that great Injury is done to the Nation, unless it can be proved that the unnecessary Continuation of Debts and Taxes is a National Benefit.

5thly, Because we conceive, that if the whole Produce of the Sinking-Fund were not to be applied to the Discharge of the Publick Debts, it would be much more for the Ease of Trade and Advantage of the Nation, that some of those grievous Taxes out of which it arises should cease, than that they should be continued to supply the current Service at Four *per Cent.* which might certainly be supplied by other Ways at a cheaper Rate. These Taxes are not only grievous in themselves, but almost intolerable, by the manner of collecting them under the Laws of Excise ; Laws so oppressive to the Subject, and so dangerous to Liberty, that every Man, who wishes well to his Country, must, in our Opinion,

active

desire to see them put to a speedy End. Most of these Taxes were laid during the Necessity of two long and expensive Wars, and were granted only for Terms of Years, that to the Principal and Interest of the Loans made on them might be paid off in a certain limited Time: Thus the Nation consented to pay, in some manner, a double Tax, in order to avoid the long and uncertain Continuance of such grievous and dangerous Impositions; and, according to the first Design, many of them would have been very near the Expiration of their Term at this Hour. The Wisdom of Parliament, indeed, thought fit afterwards to throw these Taxes, and the Method of discharging the Publick Debts, into another Form, which now subsists; but we cannot conceive, that this was done with a View of continuing our Taxes and our Debts the longer; on the contrary, we are sure, it was done in the View of discharging both the sooner; and it is this very View which, we apprehend, must be fatally disappointed, if the present Method of diverting any Part of the Sinking-Fund from the Payment of the Publick Debts be suffered to continue.

6thly, Because we apprehend, that this Method may create the utmost Uneasiness in the Minds of his Majesty's Subjects, and may tend, if not timely prevented by the Wisdom and Authority of this House, to diminish their Affection for his Person and Government: Hitherto, whilst they have laboured under the Weight of Taxes, and groaned under the Oppression of Excise Laws, the Hopes of seeing speedily an End of both has been their sole Consolation; but nothing can maintain this Hope; except a due Application of the entire Sinking-Fund to the Discharge of those Debts, for the Discharge of which these Taxes were intended and given: if some Part of this Fund therefore continue to be mortgaged off, and other Parts to be applied to the current Service, even in the midst of profound Peace, this Hope must sink, and Despair arise in its stead. We insist with greater Concern and Earnestness on this Point, from our Observation of what has lately passed on the Occasion of Attempts made to extend the cruel and arbitrary Methods passed under the Laws of Excise, and naturally and necessarily, as we apprehend, flowing
from

from them : If any new Law of this kind had passed elsewhere, we persuade ourselves, it could not have prevailed in this House ; but we think it the more incumbent upon us, after such an Attempt, and such National Resentment expressed against it (both which are of publick Notoriety) to promote, as effectually as we are able, the Quiet and Happiness of his Majesty's Reign, by cutting off any Hopes or Fears which may be still entertained that such a Project will some time or other succeed ; and to this good and laudable End we conceive that nothing would have contributed more than such a solemn Declaration of the Sense of this House as is contained in the Question.

| | | |
|------------------------------|---------------------|--------------------|
| <i>Bedford,</i> | <i>Shaftesbury,</i> | <i>Litchfield,</i> |
| <i>Craven,</i> | <i>Bridgewater,</i> | <i>Sunderland,</i> |
| <i>Gainsborough,</i> | <i>Bruce,</i> | <i>Coventry,</i> |
| <i>Wa. & Nottingham,</i> | <i>Ker,</i> | <i>Carteret,</i> |
| <i>Strafford,</i> | <i>Masbam,</i> | <i>Batburst,</i> |
| <i>Gower,</i> | <i>Thanet,</i> | <i>Tweeddale.</i> |

Die Sabbati 2^o Junii, 1733.

The House being moved to appoint a select Committee to examine into the Proceedings of the *South-Sea* Company,

After Debate, the Question was put, whether a select Committee shall be appointed, of twelve Lords to be chose by Ballot, to examine into the Transactions and Proceedings of the *South-Sea* Company from the 2d Day of *February* 1720, and to lay their Report before this House ?

It was resolved in the Negative.

Dissentient

1st, Because the present Debt of the Kingdom being almost wholly incorporated into the three great Companies, it behoves the Legislature, who are the proper Guardians of the Publick Creditors, to take all possible Care that they suffer no Injury in their Estates, by any Frauds committed in the Management of them ; for tho' the Directors are chosen by a general Court, they are invested with such extensive Powers, that they are capable, by abusing their Trust, of doing infinite Mischief

It is further stated that the proceedings are vigorously conducted and continued to the present day, and that only the necessary and in addition, protection of the

It is further stated that the proceedings have been continued, by the further and continued to the present day, and that only the necessary and in addition, protection of the

It is further stated that the proceedings have been continued, by the further and continued to the present day, and that only the necessary and in addition, protection of the

Money, in order to give a fallacious Value to their Stock, Multitudes of his Majesty's Subjects have been defrauded ; and they have, without the Knowledge of the Proprietors, not only dissipated above two Millions three hundred thousand Pounds received from the Directors Estates, but they have, likewise brought a new Debt of two Millions upon the Company, and thereby diminished the Capital of every Proprietor's Stock ; by which means great Injury and Injustice have, in numerous Instances, been done to Orphans and the Reversionary Heirs of these Estates, to the great Dishonour of the Publick Faith, and Discredit of the Nation.

4thly, Because, altho' the Directors applied to Parliament, in the Year 1727, for their Authority to dispose of the Produce of the Estates of the forfeiting Directors, pretended to be then remaining in their Hands ; yet it appears, by the Accounts now before us, that the greatest Part of this Money had been before actually divided out in extraordinary Dividends ; and when, in order to give some Colour to these Proceedings, they obtained an Act of Parliament to dispose of these Effects, they never called a General Court to acquaint them with the State of this Account, or to take their Directions for the Application of any remaining Part of these Estates, notwithstanding they were expressly required to do by the said Act.

5thly, Because there is Reason to believe, from a general View of the same Accounts, that there are many Articles, hitherto unexamined, under which a multitude of Frauds may be concealed, such as buying, selling, creating, and issuing of Bonds ; employing irregularly the Cash of the Company which lay in their Hands, whilst the Proprietors were paying Interest for Money borrowed of the Bank ; transacting Stock abroad, and selling fictitious Stock at home, with many other Practices of the like Nature, too long and various to be particularly explained : For these Reasons, we conceive, it was absolutely necessary to have appointed a Committee ; as the only Method to distinguish the few who probably are criminal, from many Gentlemen who may at present lie unjustly under the same Imputation, especially at a Time when a Bill was actually depending for dividing

is absolutely in the Crown, we cannot but think it highly reasonable, when so great an Increase of Power and Influence, which was formerly occasional and rare, comes to be annually vested, and constantly exercised by the Crown, that some such Limitations as proposed by this Bill are not only proper but necessary; and were confirmed in that Opinion, by the Doctrine so often and so strongly laid down in this House, that the great Danger to this Nation, from a standing Military Force, must arise from the Abuse of the Power which now subsists of cashiering Officers, without any Crime proved or alledged, and of garbling the Army at Pleasure; and we heartily wish that nothing had since happen'd to put us in mind of that Doctrine.

2dly, Because the employing or removing of all General Officers would have been left in the Crown, if this Bill had passed into a Law; for the enacting Clauses were only to this Purpose, (That no Colonel or other Officer of inferior Degree, having his Commission from the Crown, shall be cashiered or removed other than to an higher Post, or discharged from his Commission, or be deprived of the Pay belonging to the same, in any other Manner than by a Court-Martial to be appointed by a Commission under his Majesty's Sign Manual to any Officer not under the Degree of a Field-Officer.) At the same Time there is a Provision in the Bill, (That nothing shall extend to prevent his Majesty or his Successors from disbanding, breaking or reducing all or any of the Regiments, Troops or Companies now in Being, or which shall or may be raised hereafter); and it is further provided, (That his Majesty and his Successors may remove any Officer upon an Address of either House of Parliament.) We conceive therefore, that, as those Posts would still have remained, upon all Vacancies, in the sole Disposal of his Majesty, and the Persons now possessing them are liable to be removed for any Breach or Neglect of their Duty, by a Court-Martial, or by Address of either House of Parliament, the Prerogative of the Crown would no otherwise be abridged or altered than it has been on many other Occasions, particularly in that Instance of making the Judges to hold their Places, *Regandi se bene gerunt*, which was formerly during

the *Principles* only; which Alteration has been always approved, and, we hope, will in no time to come ever be attempted to be repealed.

3^{dly}, Because the Practice of all the Nations in Europe, even where the Government is most Arbitrary, justifies the Intention of this Bill; for no Instance can be produced in any other Kingdom or State (as we believe) where Officers are cashiered or deprived of their Commissions; otherwise than by the judgment of a Court-Martial: How much stronger Reason then have we of this Nation to establish such a Rule, since our Officers are, many of them, in a Capacity of having a Share in the Legislature, where it is absolutely necessary for the Preservation of the Constitution, that every Member should be free and independent, and more particularly at this Time, when we find the Number of Officers having Seats in Parliament far greater than it ever was in Times of War, when above three Times the Number of the present Troops were kept on Foot.

4^{thly}, Although it was objected in the Debate, That in Time of Danger (upon Suspicion of traiterous Practices) it might be necessary to remove an Officer from his Post, though the Informations might not be ready to be produced, or proper to be laid before a Court-Martial, and yet by such Officer's continuing in his Post, great Mischief might accrue to the Publick; we apprehend that Objection received a full Answer, That in such a Case an Officer might be immediately put under Arrest, or sent to some other Post where he could not be dangerous. And, we conceive, such a Method of Proceeding will always be thought most proper where the Crime is only suspected, but not capable of legal Proof; for it must be allowed as unjust to condemn a Man upon Suspicion only, as it would be unreasonable to let a Man continue in Power who is justly under Suspicion. That Part of the Prerogative, which will be always esteemed the brightest Jewel of the Crown, the Power of conferring Grace and Favour, would have remained entire, had this Bill passed into a Law; and only the disagreeable Part of inflicting Punishments was designed to be limited, or rather secured by this Bill, from being turned to any ill Use, by the private Whispers of some malicious or
vin-

vindictive Minister, who may at any Time heretofore Possession of the Royal Ear.

And, Because, the Time for the new Election being near, we look upon this as the most favourable opportunity of passing so necessary a Bill, since the very great Increase which may probably be the Number of Officers in Parliament may render the passing of such a Bill totally impracticable; if the Officers of the Army remain in their present Situation, they may be intimidated, by the offer of an unforgiving Minister, from voting even for a Bill of this Nature, and choose to purchase present at the Price of their own Interests and their own Independence in Parliament, in which the Liberties of their Country are so much concerned.

And, Because we conceive the small Degree of Remedy proposed to be given to the Officers of the Army, by this Bill, to be necessary to prevent the arising of such Temptations, in which (though we wish to do Justice to the Sentiments of Honour and Virtue in those Gentlemen) we should rather than wonder to find a discouraged and indigent Officer to a criminal but prosperous Compliance; and should we have the Misfortune to see an Insatiable-grasping and Power-engrossing Minister, who would make their political Submission to his oppressive and destructive Schemes, the only Test of their Merit, and the only Tenure of their Commissions.

| | | |
|--------------------|--------------|---------------|
| Mr. S. Nottingham, | Brace, | Scarsdale, |
| Mr. Norton, | Safford, | Bedford, |
| Br. Grosvenor, | Marlborough, | Bolton, |
| Bartholomew, | Denshaw, | Craven, |
| Musgrave, | Carteret, | Oxford & M. |
| Mar. Smith, | Cobham, | Tadcaster, |
| Coxe, | Strafford, | Boyle, |
| Musgrave, | Weymouth, | Litchfield, |
| Trotter, | Foley, | Cardigan, |
| Croft, | Griffin, | Gower, |
| Baker, | Kir, | Willoughby de |

Then the Question was put, whether the aforesaid Bill shall be rejected?

It was carried in the Affirmative.

Moved, That an humble Address be presented to his Majesty, to desire that he will be graciously pleased to acquaint this House, who advised his Majesty to remove the Duke of *Bolton* and the Lord Viscount *Cobham* from their respective Regiments, and what Crimes were laid to their Charge.

And the same was likewise objected to.

Contents 48 After further Debate, the Question was
NotCont. 77 put thereupon?

It was resolved in the Negative.

Dissentient,

1st, Because we conceive, that it is the inherent Right of this House to address the Crown, to be informed who are the Advisers of any Measures that may be prejudicial to his Majesty's Government, or dangerous to the Liberties of the Nation.

2^{dly}, Because the Removal of two Officers of such Rank and Dignity, and of such known Fidelity to his Majesty's Person and Government, without any Cause assigned, or any known or alledged Neglect of their Duty, gave the greatest Alarm to many of his Majesty's most faithful Subjects; we therefore thought it for his Majesty's Service to give him this Occasion to publish to the World the just Grounds of his Displeasure, or to detect the Calumny of their Accusers, and consequently to withdraw his Confidence from such pernicious Counsellors.

3^{dly}, Because that, as the Practice of displacing Officers has grown more frequent in Proportion to the Increase of their Numbers in both Houses of Parliament, the World may entertain (however unjustly) an Opinion that the free Use of their Votes has been the real Cause of their Disgrace; and the more so, since most of the Persons who have been removed have happen'd to be Members of one or other House of Parliament.

4^{thly}, Because Applications of this Nature to the Crown may hereafter protect many of his Majesty's faithful Subjects from the secret and malicious Representations of some Minister in future Times, who though unrestrained by Sense of Truth, regardless of his Prince's real Interest, and animated only by his own Passions, may however be checked by the just Apprehensions, that
S the

the Applications of Parliament may lay open his Calumnies, and bring upon himself the Disgrace he had prepared for others.

| | | |
|-------------------------------|---------------------|-----------------------------|
| <i>Wa. & Nottingham,</i> | <i>Bruce,</i> | <i>Batburst,</i> |
| <i>Berkshire,</i> | <i>Denbigh,</i> | <i>Suffolk,</i> |
| <i>Craven,</i> | <i>Anglesey,</i> | <i>Scarsdale,</i> |
| <i>Marlborough,</i> | <i>Bridgewater,</i> | <i>Montjoy,</i> |
| <i>Montrose,</i> | <i>Tadcaster,</i> | <i>Ker,</i> |
| <i>Chesterfield,</i> | <i>Cardigan,</i> | <i>Bedford,</i> |
| <i>Boyle,</i> | <i>Abingdon,</i> | <i>Northampton,</i> |
| <i>Oxford & Mortimer,</i> | <i>Masbam,</i> | <i>Strafford,</i> |
| <i>Warrington,</i> | <i>Foley,</i> | <i>Griffin,</i> |
| <i>Bristol,</i> | <i>Gower,</i> | <i>Weymouth,</i> |
| <i>Tweedale,</i> | <i>Litchfield,</i> | <i>Marchmont,</i> |
| <i>Clinton,</i> | <i>Carteret,</i> | <i>Willoughby de Broke.</i> |

Dissentient

Because we are not conscious, that any Neglect or Breach of our Duty can be laid to our Charge, much less any Want of Zeal and Attachment for his Majesty's Person and Government; we therefore must testify our earnest Desire, that this Motion had passed in the Affirmative, that we might have had an Opportunity given us of knowing our supposed Crimes and Accusers, and, we hope, of justifying ourselves to his Majesty and the World.

Belton,

Cobham.

Die Mercurii 6^o Martii, 1733.

The Order of the Day being read for the House to take into Consideration Matters relating to the Election of the Peers of that Part of *Great-Britain* called *Scotland*.

Moved to resolve, That no Peer who hath claimed, or shall claim Right by Succession to any Peerage of *Scotland*, other than a Descendant of the Body of a Peer or Peers, who has been in the Possession of the Peerage claimed since the 25th of *April*, 1690, shall be admitted to vote at any Election of a Peer or Peers to sit in Parliament for that Part of *Great-Britain* called *Scotland*, until his Right and Title be claimed and determined in this House.

After Debate, ordered, That on *Monday* next this House shall be put into a Committee of the whole House, to take into Consideration Matters relating to the Election of the Peers of that Part of *Great-Britain* called *Scotland*.

Then it was moved to resolve, for the better securing the Freedom of the Election of a Peer or Peers to sit in Parliament of *Great-Britain* on the Part of *Scotland*, That the Election shall be by way of Ballot.

And a Question being stated thereupon,
 Contents 49 } 63 After further Debate,
 Proxies 18 } The Question was put upon the said
 Not Cont 75 } Motion? And
 Proxies 21 } 96 It was resolved in the Negative.
Dissentient

1st, Because this Motion tending only to make a Variation in the Manner of electing the Peers for *Scotland*, we apprehend it is entirely agreeable to the Intention of the 22d Article of the *Union*; for whatever can contribute to make the Election more free and independent, the more it answers the Design of that Article; and we must observe, that this House has been so far from thinking the Manner of Election unalterable, that a Bill passed this House, by which the Election itself was entirely abolished.

2^{dly}, Because in an Election of this Nature, the Method of voting by Ballot appears to us infinitely preferable on many Accounts; for as, it is well known, there are several Alliances amongst that Body of Nobility, many of the Peers may be put under great Difficulties, their Alliances drawing them one Way, and their Opinion and Inclination another Way: It is also possible, that by Pensions from the Crown, or by Civil or Military Preferments, some of them may lie under Obligations to a Court, and be reduced to the hard Necessity (under the Power of an Arbitrary Minister) either of losing their Employments, or of voting against their nearest Relations and their own Opinions also: We apprehend that no Election can be called perfectly free, where any Number of the Electors are under any Influence whatsoever, by which they may be biassed in the Freedom of their Choice.

And, Because we apprehend that this House is, in a most essential Manner, concerned in the Freedom of this Election; for if hence new Members are to be brought in every new Parliament, under any undue Influence, it may tend to subvert the Independence of this House, and of consequence the Constitution of the whole Kingdom: in means of such an Election, an ambitious Minister may make use of the Power of the Crown, at one Time, to destroy the Interest of the Crown; at another, to oppress the Liberty of his Fellow-Subjects; and, in either Case, protect himself from the just Reformation of both.

And, As this House is the highest Court of Judicature, and the last Resort in all Matters relating to the Properties of the Subjects of Great-Britain and Ireland, we conceive, that every Person, who is Master of any Property, is concerned in the Consequence of this Motion: for if hence of these Members, in whose Hands the great Trust is vested, should ever be thought to be in the Nomination of a Minister, the Subjects of these Kingdoms may have great Reason to dread the Consequence of such uncontrollable Influence, by which their Liberties, Lives and Properties might be render'd pre-
carious.

| | | |
|---------------|-------------|---------------------|
| Mr. Howard, | Bath, | Coventry, |
| Bathurst, | Exeter, | Brace, |
| Carver, | Gloucester, | Ker, |
| Wentworth, | Bath, | W. & Nottingham, |
| Coleman, | Bristol, | Bergham, |
| Chute-hill, | Marchmont, | Oxford & Martineau. |
| Croft, | Spierford, | Bathurst, |
| Mauger, | Warrington, | Bristol, |
| Severell, | Stair, | Foley, |
| Mr. Crumwell, | Denbigh, | Tadcaster, |
| Mr. Crumwell, | Gravel, | Litchfield. |
| Mr. Crumwell, | | |

Dix LXX 18^o Martii, 1733.

The Order of the Day being read for the taking into Consideration Matters relating to the Election of the Peers of that Part of Great-Britain called Scotland.

It was moved to resolve, That it is the Opinion of this House, that any Person or Persons taking upon him or them to engage any Peers of *Scotland*, by Threats, Promise of Place or Pension, or any Reward or Gratuity whatsoever from the Crown, to vote for any Peer or List of Peers to represent the Peerage of *Scotland* in Parliament, is an high Insult on the Justice of the Crown, an Incroachment on the Freedom of Elections, and highly injurious to the Honour of the Peerage.

And a Question being stated thereupon,

After Debate, it was moved to put the previous Question.

| | | |
|-----------|----|------|
| Contents | 83 | } 60 |
| Proxies | 17 | |
| Not Cont. | 73 | } 99 |
| Proxies | 26 | |

And after further Debate, the previous Question was put, whether the said stated Question shall be now put? And

It was resolved in the Negative.

Dissentient

1st, Because we apprehend, that this Resolution, being only declaratory of undeniable Truths, ought not to have been avoided by a previous Question, since, we fear, the leaving it undetermined may tend to encourage Practices dangerous to our Constitution in general, and to the Honour and Dignity of this House in particular.

2^{dly}, Because we think, this House cannot shew too strong an Abhorrence of Practices which, whether they have been committed or not in former Elections, are yet of such a Nature as may possibly be attempted hereafter by a Minister, who may find it necessary to try all the Methods to secure a Majority in this House, either to promote his future ambitious Views, or to screen his past criminal Conduct.

Suffolk,
Marchmont,
Shaftsbury,
Gower,
Wa. & Nottingham,
Bedford,
Ker,
Bristol,

Tadcaster,
Cardigan,
Foley,
Litchfield,
Tweeddale
Abingdon,
Strafford,
Barburst,

Thanet,
Stair,
Aylesford,
Cobham,
Bruce,
Oxford & Mortimer.
Montrose,
Craven,

Bolton, *Coventry,* *Northampton,*
Carteret, *Berkshire,* *Griffin,*
Chesterfield, *Marlborough,* *Willoughby de Broke,*

Die Martis 26^o Martii, 1734.

The House was moved, That the Select Committee appointed the seventh Instant to consider of the Representation of the Commissioners for Trade and Plantations relating to the Laws made, Manufactures set up, and Trade carried on in any of his Majesty's Colonies and Plantations in *America*, which may have affected the Trade, Navigation and Manufactures of this Kingdom, be impower'd to inquire of the proper Methods for the Encouragement and Security of all Trade and Manufactures in the said Plantations, which no way interfere with the Trade of *Great-Britain*, and for the better Security of the Plantations themselves.

And a Question being stated thereupon,

It was propos'd after the Word [Encouragement] to leave out [and Security.]

Which being objected to, and Debate had thereupon,

Contents 28 The Question was put, whether the
 Not Cont. 52 Words [and Security] shall stand
 Part of the Question.

It was resolv'd in the Negative.

Then it was propos'd, That these Words at the latter End of the Motion, *viz.* [and for the better Security of the Plantations themselves] be left out.

But the same being objected to,

The Question was put, whether these Words shall stand Part of the Question? And

It was resolv'd in the Negative.

Dissentient

Because we apprehend, that if the Safety of the Plantations themselves is not thought a Matter worthy the Consideration of the Parliament, it is of little Consequence to consider of their Laws, Manufactures or Trade.

Bedford, *Berkshire,* *Stratford,*
Bristol, *Litchfield,* *Abingdon,*
W. & Nottingham, *Aylesford,* *Carteret,*
Bathurst,

*Bathurst,
Tadcaster,
Bolton,
Northampton,
Craven,*

*Montrose,
Tweeddale,
Thanet,
Gower,*

*Stair,
Marchmont,
Coventry,
Cardigan.*

Then the Question was put, whether the said Committee shall be empowered to inquire of the proper Methods for the Encouragement of all Trade and Manufactures of the Plantations in *America*, which no Way interferes with the Trade of *Great Britain*, or which may be of Use to *Great Britain*? And It was resolv'd in the Negative.

Dissentient

1st, Because we apprehend, that the new Powers proposed to be given to the Committee, were not only expedient, but absolutely necessary, since by the Account given by several Lords who attended the Committee (and contradicted by none) it appear'd to the House, That from the Informations of Merchants of undoubted Credit, *Jamaica, Barbadoes*, and the *Leeward Islands* were in so defenceless a Condition, that they might be taken in four and twenty Hours; and we conceive, that such imminent Danger of such valuable Possessions required an immediate and minute Examination, in Order to discover the Causes and Nature of the Danger, and to apply proper and adequate Remedies.

2^{dly}, Because we conceive, that the chief Reason urged in the Debate, against this Inquiry, is the strongest Argument imaginable for it, *viz.* That it might discover the Weakness of those Islands in the present critical Juncture, and invite our Enemies to invade them; whereas we think that this critical Juncture calls upon us to put our Possessions in a State of Defence and Security in all Events; and since we cannot suppose their present defenceless Condition is unknown to those Powers who are the most likely to take the Advantage of it, we apprehend it to be both prudent and necessary, that those Powers should at the same Time know, that the Care and Attention of this House was employed in providing for their Security. We likewise conceive, that such an Argument may tend to debar a House of Parliament from looking into any of our Affairs, either Foreign or Do-
mestic.

being in any Transaction, at any Time, there has never been a weak, negligent or treacherous Management. The Directors will never fail to lay out all their Argument to stop any parliamentary Inquiry, and the Fear of discovering a national Weakness may be every Day to prevent the Detection of ministerial Negligence or Guilt.

2nd. Because we have found by Experience, that we can never be so attentive to the Preservation of the Privileges and Dependencies of this Kingdom, since Treason alone will not bind those Powers, who, from the Possession of their Station, from favourable Opportunities, or other Inducements, may be tempted to attack or invade them: but the Interposition of a *British* Parliament will be more respected and more effectual than the numerous Expedients of intriguing and variable Negotiations. which in former Times have been often more answerable to the present Necessities of the Ministers than to the real Honour and lasting Security of the Nation.

3rd. Because we apprehend, the debarring this House from any Inquiry into the Conduct of Ministers at the Time that it is then giving their Advice in Matters of great Concern to the Public for the Time to come, tends to destroy the very Being of this House, and to annihilate the whole Frame of our Constitution; and now industrially a View must it be to all his Majesty's Subjects to see the private Property of the Nation, and so advantageous a Trade to the whole, confined to be brought under the Inspection of one House; and yet as far as it appears as is usually registered by the Administration! And we are the more surpris'd to find this Backwardness with Regard to the Interest of our Colonies, since we are perswaded that the Balance of Trade at present is against us in all Parts of the World, and only compensated in some Degree by what we gain by our *W^{est}-India* Trade; neither can we allow that they ought to be left to look after themselves, since they have a Right to claim even more than the Protection of their Mother Country by the Warlike they annually contribute to it, and the great Taxes they pay, to the Increase of the publick Funds and of the Civil-List; and we are fully convinced, that

if this beneficial Trade should once be lost, it will be irrecoverably lost, to the infinite Damage of this Kingdom; for though the Islands should be restored to us afterwards, the Utensils and Stock of Negroes being carried away, it would take up a long Tract of Time, and would be a very great Expence to the Public, to reinstate them in their present Condition; we rather think it impracticable to restore them, though we can by no Means suppose it difficult, by timely Precautions, to prevent their Destruction.

| | | |
|----------------------|--------------------|----------------------------|
| <i>Chesterfield,</i> | <i>Strafford,</i> | <i>Gower,</i> |
| <i>Bedford,</i> | <i>Litchfield,</i> | <i>Wa. and Nottingham,</i> |
| <i>Berkshire,</i> | <i>Thanet,</i> | <i>Montrose,</i> |
| <i>Tadcaster,</i> | <i>Tweedale,</i> | <i>Marchmont,</i> |
| <i>Northampton,</i> | <i>Carteret,</i> | <i>Stair,</i> |
| <i>Batburst,</i> | <i>Balton,</i> | <i>Abingdon,</i> |
| <i>Coventry,</i> | <i>Cardigan,</i> | <i>Craven.</i> |
| <i>Bristol,</i> | <i>Foley,</i> | |

Die Veneris 29° Martii, 1734.

The Order of the Day being read for taking into Consideration his Majesty's most gracious Message delivered to this House Yesterday,

It was moved to resolve, That an humble Address be presented to his Majesty, to express the dutiful and grateful Sense which this House conceives of his Royal Care and Attention for the Honour and Security of his Kingdoms; to declare their unalterable Fidelity to his Majesty, and their earnest Desire, that his Endeavours for an Accommodation may be effectual; and that his Majesty may in all Events be in a Condition to make good such Engagements as Honour, Justice and Prudence may call upon him to fulfil or contract; and that his Dominions may not be exposed to any desperate Attempts especially at a Time when it may be impossible for the great Council of the Nation to be immediately convened; to give his Majesty the strongest Assurances, that this House will cheerfully support him in making such further Augmentation of his Forces, either by Sea or Land, as shall be necessary for the Honour and Defence of his Kingdoms, and in concerting such Measures as the Exigency of Affairs may require; and to return his Majesty the Thanks

of this House for his gracious Declaration, that an Account of any Augmentations made and Services performed shall be laid before the next Parliament: This House reposing an entire Confidence in his Majesty's Royal Wisdom and paternal Concern for the true Interests of his People.

Which being objected to, after long Debate thereon, Contents 76 } The Question was put, whether
Proxies 25 } 101 such an Address shall be presented
Not Cont. 39 } to his Majesty?
Proxies 19 } 58

It was resolved in the Affirmative.

Dissentient

Because we are of Opinion, that no free People should, on any Occasion whatever, vest in any Person an unlimited Power for an indefinite Time, and whenever they do, they at the same Time resign the Liberty.

| | | |
|-------------------------------|---------------------|------------------------------|
| <i>Abingdon,</i> | <i>Aylesbury,</i> | <i>Chesterfield,</i> |
| <i>Bristol,</i> | <i>Shaftesbury,</i> | <i>Boyle,</i> |
| <i>Northampton,</i> | <i>Foley,</i> | <i>Bedford,</i> |
| <i>Montrose,</i> | <i>Marchmont,</i> | <i>Litchfield,</i> |
| <i>Cobham,</i> | <i>Batburst,</i> | <i>Carteret,</i> |
| <i>Strafford,</i> | <i>Graham,</i> | <i>Stair,</i> |
| <i>Weymouth,</i> | <i>Burlington,</i> | <i>Willoughby de Broke,</i> |
| <i>Ker,</i> | <i>Cardigan,</i> | <i>Gower,</i> |
| <i>Berkshire,</i> | <i>Coventry,</i> | <i>Montjoy,</i> |
| <i>Tbanet,</i> | <i>Tweeddale,</i> | <i>Craven,</i> |
| <i>Oxford & Mortimer,</i> | <i>Clinton,</i> | <i>Wa, & Nottingham.</i> |

Dissentient

1st, Because we conceive, an Address of this Kind, empowering the Crown to raise Men and Money, without specifying the Number or the Sum, is unwarranted by any Precedent, and is of the most dangerous Consequence; for it seems to us totally to subvert the very Foundation of our Constitution, the Wisdom of our Ancestors having provided many regular Steps and solemn Forms for granting Supplies to the Crown; Whereas this new Method of a sudden Address, upon a Message, at once frustrates and eludes all those wise and ancient Precautions.

2^{dly}, Because the History of several Countries, formerly free, furnishes us with many fatal Examples of the Abuse

Abuse of such unlimited Powers, whenever the Estates of those Countries have transferred the legislative Authority of raising Money from themselves, by an ill placed Confidence, into the Hands of a few; the Cortes of *Spain*, by trusting the Power of raising Money without their being assembled, though but for one Year; and the Estates of *France*, by allowing the Aids for the Defence of that Kingdom to be raised for three or four Years together, without their being summoned to meet, have never been able to retrieve their ancient Liberties and Constitution; but by the weak Compliance with such a fatal Measure were the unhappy Instruments of rendering themselves useless, and of enslaving their respective Countries.

3dly, Because though we have all possible Confidence in his Majesty's Wisdom and Justice, and all imaginable Zeal to the Honour and Support of his Person and Government, we cannot approve of a Message which, we are persuaded, was both formed and advised by the same Ministers, in whom those extensive and discretionary Powers are lodged by this Address; and we see no Reason, from any Experience of their past Oeconomy, to trust them with the arbitrary Disposal of an unlimited Sum, and as little Reason, from the Success of their former Alliances, to give any Approbation to past Treaties, which have never been communicated to this House, or a previous Sanction of any future Treaties they shall contract; especially since, by the Multiplicity of Negotiations, they have involved the Nation in Engagements with divers foreign Powers, inconsistent (as we conceive) with one another, and in so great a Variety, we can by no Means be sure that the best will be singled out to be fulfilled,

4thly, Because the present unfortunate Situation of the Affairs of *Europe* cannot be represented as unforeseen or unexpected, since from the gradual Progress of our Negotiations for some Years last past, the gradual Increase of the Disorders and Confusion in *Europe* has constantly been foretold: We therefore conceive, that had there not been some secret Reason for proceeding in this Manner (which Reason we will rather pass over in Silence, than attempt to point out) the necessary Demands of

Men and Money would have been laid before the Parliament at the Beginning of the Session, according to the ancient and regular Usage; and which would as certainly have been granted by a Parliament which has distinguished itself by a remarkable Zeal, Duty and Liberty in the Throne.

1734. We cannot think it prudent, in order to extricate ourselves out of our present Difficulties, to lodge these unlimited and as we apprehend dangerous Powers in the Hands of those very Persons, under whose Management and Conduct these Difficulties have been brought upon us: If as we conceive the National Debts are hardly lessened by more than twenty Years Peace; if our successive Fleets have proved a Terror to no Nation, and but only a Burthen to our own; if our great Armies have disturbed the Minds of none but his Majesty's own Subjects, this extensive Power of raising Money, Fleet and Armies seems to us improperly intrusted in the Hands of those Ministers who have made no better Use of the Confidence already reposed in them.

1735. We would, with the utmost Zeal, concur in whatever might increase to his Majesty the Affections of his People at home, or the Respect of his Neighbours abroad; but this Zeal without Knowledge, we think, can tend to neither of those desirable Ends, but on the contrary, rather bring Contempt (as we apprehend) upon the too easy and implicit Faith of Parliaments, than add Weight and Dignity to those Powers we lodge, without any visible Reason, in the Hands of the Ministers.

| | | |
|----------------------|-------------|------------------|
| Gower, | Litchfield, | Bathurst, |
| Coxterfeld, | Boyle, | Foley, |
| Bristol, | Graham, | W. & Nottingham, |
| Tewkesdale, | Stair, | Shaftesbury, |
| Northampton, | Clinton, | Berkshire, |
| Cobham, | Tbanet, | Craven, |
| Oxford & Mortimer, | Aylesford, | Montrose, |
| Bedford, | Marchmont, | Strafford, |
| Carteret, | Ker, | Coventry, |
| Montjoy, | Cardigan, | Weymouth, |
| Willoughby de Broke, | | |

Die Jovis 11^o Aprilis, 1734.

Hodie 2^a vice lecta est Billa, entitled, An Act for enabling his Majesty to apply the Sum of one Million two hundred Thousand Pounds out of the Sinking-Fund for the Service of the Year 1734, and for appropriating the Supplies granted in this Session of Parliament.

Proposed to commit the Bill, which being objected to, And long Debate had thereon,

Contents 64 } 94

Proxies 30 }

Not Cont. 32 }

Proxies 19 } 51

Dissentient

The Question was put, whether this Bill shall be committed?

It was resolved in the Affirmative.

1st, Because the taking away, in this Manner, the whole Produce of the Sinking-Fund has a Tendency, as we apprehend, to the Destruction of parliamentary Credit and national Faith, and is more dangerous in its Consequences, as it is founded upon a Doctrine newly laid down, That the Proprietors of all the Debts, subscribed to the *South-Sea* Company, have no Right to their principal Money, but only to an Annuity of Four *per Cent.* and if this Opinion should be thought to be countenanced by Parliament in passing this Bill, we are apprehensive, that the Effects of it may be too soon and severely felt, especially since the said Proprietors have found, by Experience, that they have been paid off when their Annuities or Stocks were above *Par*; and the Sinking-Fund is now diverted, when, as we apprehend, the said Stocks and Annuities are likely to fall considerably under *Par*.

2^{dly}, Because we look upon this Proceeding to be contrary to the Contract understood to have been made between the Public and those Creditors who consented to the Reduction of their Interest, in Confidence that their Principal and remaining Interest would thereby be better secured: In Pursuance of which, an Act of Parliament was made in the third Year of his late Majesty's Reign, whereby it is enacted, " That the Monies to arise from
" Time to Time by certain Surplusses, Excesses, and
" Overplus-Monies, therein specified (which are commonly called the Sinking-Fund) shall be appropriated:

“ for discharging the Principal and Interest of such na-
 “ tional Debts and Incumbrances as were incurred before
 “ the 25th Day of *December* 1716, and were declared
 “ to be national Debts, and were provided for by Act
 “ of Parliament, in such Manner and Form as should be
 “ directed or appointed by any future Act or Acts of
 “ Parliament.” And the said Act of Parliament is con-
 firmed by another Act made in the sixth Year of his late
 Majesty, which (after reciting that the said Overplus-
 Money will be greatly increased, as it was from the 24th
 of *June* 1727) applies the said Overplus-Monies as they
 stood appropriated by the former Act; and likewise estab-
 lishes a Contract between the Public; and every indi-
 vidual Creditor of the Public that subscribed to the
South-Sea Company, that the said subscribing Creditors
 shall have a perpetual Annuity of Four *per Cent.* from
 the Year 1727, until they should be paid off; and then
 applies the Sinking-Fund, so increased, to pay such
 Debts as were contracted before the 25th of *December*
 1716, and declared to be national Debts, and provided
 for by Act of Parliament; which, if it is pursued, will
 be the most effectual Means (as it is the strongest Stipu-
 lation that can be made) for paying off the national
 Debt: And these Appropriations in the said Acts were
 manifestly made to prevent the Application of the Sink-
 ing-Fund to the current Service of the Year, or to the
 Payment of Debts incurred since the Year 1716; which,
 like the present Navy-Debt, may have lain dormant as
 long as they could possibly be concealed, and been occa-
 sioned by Ministers who may have run the Nation into
 larger Expences every Year than they thought for their
 Interest to demand from Parliament; we apprehend the
 greater Danger from this Proceeding, by considering the
 Steps which have been taken before it came to this Point:
 At first some Surplusses were distinguished out of the
 Sinking-Fund; and Supplies for the current Service of
 the Year raised upon them; then a Sum of five hundred
 Thousand Pounds, being Surplusses of the said Fund
 over the Million which had been annually paid off, was
 applied last Year in the same Manner: Now the Whole
 is taken at once, and we may justly suspect, that the
 next Attempt will be to mortgage the Sinking-Fund, the

Con-

Consequence of which will inevitably be, as we conceive, a total Destruction of parliamentary Credit, and introduce a Necessity of taxing the Funds: The next Step is more easy to be foreseen than proper to be expressed.

3dly, Because the appropriating Clause in this Act is, in effect, an Unappropriation of all the Money that has been raised this Year, and puts it in the Power of a Minister to divert any of the Supplies to whatever Purposes he shall think fit; and this in consequence only of an unprecedented Message from the Crown, specifying neither the Dangers apprehended nor the Services proposed; whereas appropriating Clauses were introduced to prevent the secret ill Use of Public Money, and every Tendency of breaking through them is a just Foundation for parliamentary Jealousy and Inquiry; and therefore we apprehend, that we cannot answer it to the Nation, if we should acquiesce when such Innovations are attempted.

4thly, Because this new Method of unappropriating Money raised for particular Uses frustrates and eludes the Wisdom and Caution of Parliaments, in the original Grant of those Monies, which is always in consequence of Estimates laid before the other House, and for Services specified, and this too at the beginning of the Session in a full House; whereas this unappropriating Clause comes in not only at the End of the Session, but at the End of the Parliament, in a thin House, after many Gentlemen were obliged to go to their respective Countries, and the House may be apprehended to have consisted chiefly of such who had either no Business in the Country, or had particular Reasons for not going there till this Clause should be first passed and take Effect.

5thly, Because this Clause gives Ministers such a Latitude to embezzle or misapply the Public Money, that we apprehend it to be of the most dangerous Consequence; for the Accounts (if any) given afterwards of the Disposal of such Sums, tho' impossible to be credited, may be impossible to be disproved; Domestic Fortunes may be raised out of Foreign Subsidies, and the Money asked for our Defence, and granted for our Safe-

ty, may be employed for our Destruction: The Vote of Credit in the Year 1726, and what was built upon it, cost the Nation one Million seven hundred ninety-seven thousand seven hundred and thirty Pounds, exclusive of the great Increase of Forces by Sea and Land that were granted by Parliament; four hundred and thirty-five thousand Pounds were never accounted for to Parliament, and the rest was accounted for under the Articles of Money paid to the Landgrave of *Hesse*, amounting to one Million seventy-nine thousand seven hundred Pounds; to the Crown of *Sweden* one hundred and fifty thousand Pounds; to the Duke of *Wolfenbüttele* one hundred thousand Pounds; to Exchange to the *Hessians* ten thousand three hundred thirty-five Pounds; to Exchange to *Denmark* twenty-two thousand six hundred ninety four Pounds; and all this Expence was incurred to guard against Dangers, which the Administration then gave out they apprehended from the exorbitant Power of the House of *Austria*.

6^{thly}, Because the Money raised this Year amounts to three Millions nine hundred and eighty thousand Pounds; one Million is raised by that expensive Way of mortgaging the Salt for eight Years; the Sinking-Fund, amounting to twelve hundred thousand Pounds, is taken, and every Thing done that can carry an Appearance of easing the Land this Election-Year: But this Bill not only gives the Ministers a Power over the whole Supply raised this Year, but, by this unprecedented Device, lays a certain Foundation of a greater Load upon the Land, which the Nation may be reduc'd to pay off with Interest next Year; and we cannot omit this Circumstance, that the Money voted this Year exceeds the Supply to the Amount of above one hundred thousand Pounds,

7^{thly}, Because we conceive this Precedent to be the more dangerous at the End of a Parliament, and may be followed, fatally for our Liberties, at the Conclusion of future Parliaments; for we have little Reason to be sure, and as little to hope, that future Parliaments will be (like this) unbiass'd, uncorrupt, uninfluenc'd, by the great Number of Employments they enjoy; zealous Assertors of the Laws, Liberties, and Constitution of their Country;

Country : And should there ever hereafter unfortunately be chosen a *House of Commons*, consisting of a Set of Men corrupted by a Minister, bartering the Liberties of their Country in the most flagitious Manner, detested and despis'd by those they represent, they would probably, towards the End of their Term, compleat the Measure of their Iniquity, by lodging such a Power in the Hands of their corresponding Minister, as would enable him to chuse them again in the succeeding Parliament, contrary to the Intentions as well as Interests of their true Electors ; by which Means Corruption and Tyranny would be entail'd upon this Nation, in the most dangerous Manner, by the Sanction of Parliament.

8thly, Because blending inconsistent Matters of this Nature, as we conceive, in a Money-Bill, lays this House under the utmost Difficulties, since the Delays occasion'd by any Alterations made in this House to some Parts of a Money-Bill, may be unavoidable Obstructions to other Parts of it that require Expedition and Dispatch.

9thly, Because the extending of this unprecedented Power to the 24th of *December* next, is a Length of Time beyond what was ever known, as we apprehend, in any Case ; and is in our Opinion, not only dangerous, but unnecessary ; for the chief Pretence for the Vote was, to have Power during the Interval of Parliament, which may be chosen and meet much sooner, if it shall be thought convenient, after so extensive a Power is lodg'd. in the Hands of the Ministers for so long a Term.

| | | |
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| <i>Denbigh,</i> | <i>Craven,</i> | <i>Marlborough,</i> |
| <i>Litchfield,</i> | <i>Batburst,</i> | <i>Carteret,</i> |
| <i>Coventry,</i> | <i>Weymouth,</i> | <i>Oxf. & Mortimer,</i> |
| <i>Northampton,</i> | <i>Montrose,</i> | <i>Tweedale,</i> |
| <i>Wa. & Nottingham,</i> | <i>Stair,</i> | <i>Gower,</i> |
| <i>Clinton,</i> | <i>Strafford,</i> | <i>Ker,</i> |
| <i>Montjoy,</i> | <i>Tbanet,</i> | <i>Masbam,</i> |

Die Veneris 28^o Februarii, 1734.

The Orders of the Day being read, for the House to proceed further in the Consideration of the Petition of *James Duke of Hamilton and Brandon, Charles Duke of Queensberry and Dover, James Duke of Montrose, Tho-*

nam: Earl of *Dundonald*, *Alexander* Earl of *Marchmont*, and *John* Earl of *Stair*, in Relation to the Matter of the Election of the sixteen Peers for *Scotland*; and also to take into Consideration the Answer of the said Petitioners to the Order of this House of the 21st of this Instant *February*, deliver'd in Yesterday;

The said Answer was read;

And it being mov'd to resolve, That the Petitioners, by their Answer, have not comply'd with the Order of this House of the 21st of this Instant *February*, whereby they were ordered to lay before this House in Writing the particular Instances of the undue Methods and illegal Practices complain'd of in their Petition, upon which they intend to proceed, with the Names of the Persons by whom such undue Methods and illegal Practices were used,

After Debate the Question was put there-

Contents 50 upon?

Not Cont. 47 And it was resolv'd in the Affirmative.

Dissentient

1st. Because it was agreed in the Debate, conformable to the Rules of Reason, that no Impossibility was required from the Lord's Petitioners; and tho' we allow that they have not literally complied with the Order, yet, we think, the Assertion in their Answer, " That it is impossible for them to inform the House who were the Persons that in the Course of the Examination, and from the Testimony of future Witnesses, may appear to have been concerned," was sufficient to satisfy the House, that they have not wilfully disobeyed the Order.

And from the Nature of Things, we conceive it impracticable for the Lords Petitioners to name all the Persons who may be concerned in these illegal Proceedings; for altho' the Offers of Places, Pensions and other Gratuities must be presumed to come from Persons in Power, yet such Offers may be reasonably supposed to be conveyed by Under-Agents; and we must also observe, that if those under-hand Agents should be publicly named before Examination, they may either be prevailed upon to abscond, or to take the Whole upon themselves, to screen Offenders of a higher Rank.

We must further declare it as our Opinion, that such corrupt and dark Designs, as are specified in the Answer, may have been carried on with that Secrecy and Dexterity, that altho' a moral Certainty may appear of their having been executed, the Persons concerned in the Execution may never be discovered; yet this good Effect might have arisen from the Enquiry, that the Legislature would have found Means to prevent such pernicious Practices for the future: And even in that Case, the Lords Petitioners, by bringing this Affair before the House, would have done a real Service to the Peerage of *Scotland*, to this high Court of Judicature, and to the whole united Kingdom.

Somerset, Tadcaster, Maynard.

2dly, Because we can no ways conceive, that the going on upon this Examination, without having the Names of the Persons produced, could be attended with any possible Injustice to, or Hardship upon those who might afterwards be named by the Evidence; On the Contrary, we are persuaded, that such Persons would have an Advantage which could not happen in any other Course of Proceeding, the whole Matter of the Accusation would lie open to them, the Witnesses against them would be known, who could not afterwards be suffered to vary from their Testimony, and the House would in Justice allow such Persons a full Time to answer the Accusation and to bring up Witnesses, if necessary, to prove their Innocence: Neither is this to be looked upon as an Accusation at present; for, as it was justly observed, there are no Accusers, nor Persons accused: But we apprehend it to be the most proper Subject for a parliamentary Enquiry that can possibly be brought before this House.

3dly, However it may be necessary in the Course of other Proceedings, whether upon Impeachments or Appeals brought before this House, that all the Persons concerned should be named, we can by no means think it necessary upon an Enquiry, no final Sentence being then to be given; and those Rules which are consistent with Justice in the former Cases must, in our Opinion, tend to obstruct all Justice in the latter: We cannot conceive that an innocent Person, who should happen to be
named

named in the Course of such Examination, can possibly be deprived of the Means of making his Innocence appear; but we can well foresee, that guilty Persons, and those probably of the highest Rank, may escape by such a Method, which imposing an Impossibility on the Informants, must, as we apprehend, tend to defeat all parliamentary Enquiries; and therefore could not be, in our Opinion, within the Intention of the Order.

4^{thly}, Because the Matters specified in the Answer are of such a Nature as seem only proper to be examined in this House; and had the Lords Petitioners sought a Remedy any where else, they might have been justly censured: We apprehend therefore, that the pinning them down to the precise Words of the Order may be attended with this fatal Consequence, that all parliamentary Enquiries may be render'd much more difficult hereafter; which may probably give such Encouragement to corrupt Ministers, that they may be prompted to make the most dangerous Attempts upon the Constitution, and hope to come off with Impunity: Such Apprehensions naturally suggest the melancholly Reflections, that our Posterity may see the Time, when some of those Lords, who sit upon a more precarious Foot than the rest of the House, having, thro' due Motives of Virtue and Honour, opposed the Designs of some future Minister, for that, and for that alone, may be excluded at an ensuing Election; and the whole World may be sensible of the Cause of their Exclusion, no Remedy may be found, but their Case may become a Subject of national Concern, Indignation and Resentment.

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| <i>Scarsdale,</i> | <i>Strafford,</i> | <i>Litchfield,</i> |
| <i>Chesterfield,</i> | <i>Bruce,</i> | <i>Abingdon,</i> |
| <i>Boyle,</i> | <i>Denbigh,</i> | <i>Beaufort,</i> |
| <i>Huntingdon,</i> | <i>Bolton,</i> | <i>Craven,</i> |
| <i>Warrington,</i> | <i>Tbanet,</i> | <i>Cobham,</i> |
| <i>Masbam,</i> | <i>Bedford,</i> | <i>Shaftesbury,</i> |
| <i>Bridgewater,</i> | <i>Northampton,</i> | <i>Coventry,</i> |
| <i>Graham,</i> | <i>Haversham,</i> | <i>Aylesford,</i> |
| <i>Macclesfield,</i> | <i>Berkshire.</i> | <i>Gower,</i> |
| <i>Foley,</i> | <i>Anglesey,</i> | <i>Batburst.</i> |
| <i>Suffolk,</i> | | |

Then it was moved to Order, that the said Petition be dismissed.

Contents 85 }
Proxies 14 } 99
Not Cont. 49 }
Proxies 3 } 52

And after further Debate, the Question being put upon the said Motion?

It was resolved in the Affirmative :

And ordered accordingly.

Dissentient'

1st, Because that tho' the Lords Petitioners have not literally complied with the Order, according to the Sense of the House, yet they have laid before us Facts that are of so criminal a Nature in themselves, and so dangerous in their Consequence to the Nation in general, and to this House in particular, that we think a due Regard to the Safety of the one, and the Honour of the other, require the strictest Examination.

Somerſet,

Tadcaſter,

Maynard.

2^{dly}, For when we conſider the firſt Inſtance mentioned in the Answer of the Lords Petitioners, *viz.* " That
" the Liſt of ſixteen Peers for *Scotland* had been framed
" by Perſons in high Truſt under the Crown, long previous to the Election itſelf, and that this Liſt was
" ſhewn to Peers, as a Liſt approv'd of by the Crown,
" and was called the King's Liſt," we are fill'd with Indignation to ſee that great Name indecently blended with the Names of Miniſters, and profaned and proſtituted to the worſt Purpoſes ; Purpoſes that muſt neceſſarily tend to the Subverſion of our Conſtitution, which, we know, it is his Maſteſty's Glory and Deſire to preſerve : Such a criminal Attempt to ſcreen or facilitate a miniſterial Nomination, by the Interpoſition, equally falſe and illegal, of his Maſteſty's Name, calls, in our Opinion, for the ſtricteſt Enquiry, and the ſevereſt Punishment upon the Authors of the Fact, if it be prov'd, or the Aſſertors of it, if it be not : But is, in our Opinion, no Way to be dropt unexamin'd and unenquir'd into : Such a Precedent may, in future Times, encourage the worſt of Miniſters to load, with his Guilt, the beſt of Princes ; the borrowed Name of his Sovereign may at once become his Weapon and his Shield, and

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the Constitution owe its Danger, and he his Defence, to the Abuse of his Prince's Name, after a long Abuse of his Power.

3^{dly}, Because the following Instances, *viz.* " That Endeavours were used to engage Peers to vote for this List, by Promise of Pensions and Offices Civil and Military to themselves and near Relations, and by actual Promise of Sums of Money.

" That Sums of Money were actually given to or for the Use of some Peers to engage them to concur in voting this List.

" That annual Pensions were promised to be paid to Peers, if they concurred in the voting this List, some of them to be on a regular Establishment, and others to be paid without any Establishment at all.

" That about the Time of this Election, Numbers of Pensions, Offices, of which several were nominal, and Releases of Debts owing to the Crown were granted to Peers who concurred in voting this List, and to their near Relations," seem in the highest Degree to affect the Honour and Dignity of this House: Since untainted Streams can hardly be expected to flow from a corrupted Source: And if the Election of Sixteen Peers to represent the Peerage of *Scotland* should ever, by the foul Arts of Corruption, dwindle into ministerial Nomination instead of Persons of the first Rank, greatest Merit, and most considerable Property, we may expect, in future Parliaments, to see such only returned, who, owing their Election to the Nomination of the Minister, may purchase the Continuance of their precarious Seats by a fatal and unanimous Submission to his Dictates: Such Persons can never be impartial Judges of his Conduct, should it ever be brought in Judgment before this great Tribunal,

4^{thly}, Because the last Instance mentioned, *viz.* " That on the Day of Election, a Battalion of his Majesty's Forces was drawn up in *the Abby-Court* at *Edinburgh*, and three Companies of them were marched from *Leith*, a Place at one Mile's Distance. to join the rest of the Battalion, and kept under Arms from Nine in the Morning till Nine at Night when the Election was ended, contrary to Custom at Elections, and without

" any

any Cause or Occasion, that your Petitioners could foresee, other than the over-awing of the Election," we apprehend to be of the highest Consequence both to our Liberties in general, and the Freedom of Elections in particular; since whatever may have been the Pretext, whatever Apprehensions of Disorders or Tumults may have been alledged in this Case, may be equally alledged on future Occasions, especially when we have a Number of regular Forces, abundantly sufficient to answer such Calls; and we apprehend, that the Employment assigned to this Battalion will give great Distrust and Uneasiness to many of his Majesty's Subjects, who will fear what Use may be made of the rest of that very great Number of Men now kept up in this Station.

5thly, Because we conceive, that such a Treatment given to a Petition that contained an Information of Matters of so great Importance, and signed by Peers of such great Rank, Honour and Veracity, must in future times discourage all Informations of the like Nature.

6thly, Though all Lords declared their Desire of enquiring to the Bottom of these important Facts, and though we should acknowledge ourselves to be persuaded that it was their real Intention, yet we much doubt, whether the World will judge with the same Candour, and not rather impute this Dismissal of the Petition to an unwillingness in this House to enquire into Facts that are in their Nature so injurious to the Crown, so destructive of the Honour of Parliament, and so dangerous to the whole Frame of our happy Constitution.

Graham,

Strafford,

Foley,

Cobham,

Beaufort,

Abingdon,

Warrington,

Bolton,

Northampton,

Aylesford,

Suffolk,

Bedford,

Scarsdale,

Chesterfield,

Litchfield,

Masbam,

Boyle,

Denbigh,

Thanet,

Macclesfield,

Gower,

Berkshire,

Shaftesbury,

Bathurst,

Bridgewater,

Bruce,

Huntingdon,

Craven,

Coventry,

Anglesey,

Haversham,

After which, a printed Paper, entitled, *The Petition of the most Noble and Right Honourable the Peers of Scotland, made in the Borough-Room at Edinburgh, Jan the 4th 1734*, as containing Reflections upon the Government and the Peerage, was offered to the House.

As was also a written Copy of the said Protests, attested by Witnesses who were ready to prove it to be an authentic Copy.

And it being desired, that the same may be read,

It was moved to adjourn,

After Debate, the Question was put,
 Contents 73 whether the House shall be now adjourned to Monday next at Eleven of the Clock?
 Not Cont. 39

It was resolved in the Affirmative.

Dissentient

Because we can by no means think it consistent with the Honour of the House to adjourn without appointing a Day, as was proposed, to consider of a Matter allowed universally to be of the highest Importance; and we have Reason to apprehend that Posterity, upon the Perusal of the Journal of this Day, may be induced to think, that this House was not inclined to permit the Transactions of the late Election in *Scotland* to be brought under Examination in any Shape whatsoever; the Method proposed being, as we conceive, clear of all Objections which were made in Relation to the Petition.

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|--------------------|----------------------|----------------------|
| <i>Graham,</i> | <i>Berkshire,</i> | <i>Scarsdale,</i> |
| <i>Haverham,</i> | <i>Foley,</i> | <i>Shaftesbury,</i> |
| <i>Bedford,</i> | <i>Bridgewater,</i> | <i>Coventry,</i> |
| <i>Stratford,</i> | <i>Aylesford,</i> | <i>Abingdon,</i> |
| <i>Warrington,</i> | <i>Chesterfield,</i> | <i>Cobham,</i> |
| <i>Litchfield,</i> | <i>Denbigh,</i> | <i>Masbam,</i> |
| <i>Beaufort,</i> | <i>Bruce,</i> | <i>Bolton,</i> |
| <i>Batburst,</i> | <i>Boyle,</i> | <i>Tbanet,</i> |
| <i>Huntingdon,</i> | <i>Northampton,</i> | <i>Macclesfield,</i> |
| <i>Craven,</i> | <i>Anglesey,</i> | <i>Gower.</i> |
| <i>Maynard,</i> | <i>Suffolk,</i> | |

Die Mercurii 17^o Aprilis, 1735.

The Lord *Delawarr*, according to Order, reported from the Committee of the whole House, to whom the Bill

Bill, entitled, *An Act for regulating the quartering of Soldiers during the Time of the Elections of Members to serve in Parliament*, was committed, the Amendments made by the Committee to the said Bill; and the same were read by the Clerk.

And the first Amendment being read a second Time, which was, to leave out the latter Part of the Preamble, and to substitute Words instead thereof reciting, [That it hath been the Usage and Practice to cause any Number of Soldiers, quartered in any Place appointed for electing of Members to serve in Parliament, to remove out of the same during the Time of Election.]

Which being objected to,

Contents 61 After Debate, the Question was put, whether to agree with the Committee in the said Amendment?

Not Cont. 33

It was resolved in the Affirmative.

Dissentient

1st, Because we conceive these Words, " To the End therefore that the same may be safely transmitted to Posterity, and for the avoiding any Inconveniences that may arise thereunto from any Regiment, Troop or Company, or any Number of Soldiers which shall be quartered or billeted within any City, Borough, Town, or Place, where any Election of any Member or Members to serve in Parliament, or of the sixteen Peers to represent the Peerage of Scotland in Parliament, or of any of them, shall be appointed to be made;" extremely proper, in a Bill calculated to preserve to us and our Posterity the Enjoyment of our Liberties, by securing the Freedom of Elections: Besides that, in our Opinion, it seems very extraordinary to leave out Words that singly intimate our Desire of transmitting to our Posterity the Liberties we enjoy ourselves.

2^{dly}, Because we cannot conceive, that there was any Weight in the Argument urged for omitting those Words, viz. [That they carried an Imputation that some Facts had been committed contrary to the Freedom of Election:] which this Bill was to prevent for the future; whereas, in our Opinion, it is so much the contrary, that, we think, the leaving out those Words, the natu-
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as *Imputation* of which carry no *Imputation* at all, may
 be confirmed as a *Consequence* of some irregular
 in the *Trade* of *Exports* at *Elections*, which, it might be
concluded, that *Words* might point out, especially
 in the *Letters* of the *Nature* have of late been spread,
 which will *proceed* if not we do not take upon our-
 selves to *decide*.

| | | |
|-------------------|--------------------|---------------------|
| <i>London,</i> | <i>Country,</i> | <i>Ker,</i> |
| <i>Overland,</i> | <i>Coast,</i> | <i>Bridgewater,</i> |
| <i>Sea,</i> | <i>British,</i> | <i>Anglesy,</i> |
| <i>Home,</i> | <i>Gravel,</i> | <i>Gower,</i> |
| <i>Foreign,</i> | <i>Emigration,</i> | <i>Foley,</i> |
| <i>Overland,</i> | <i>Coast,</i> | <i>Beaufort,</i> |
| <i>Vincent's</i> | <i>British,</i> | <i>Haverham,</i> |
| <i>Amsterdam,</i> | <i>English,</i> | <i>Boyle.</i> |
| <i>London,</i> | <i>King's,</i> | |

Then another *Amendment* was read a second Time,
 being to *insert* the *second* *enacting* *Clause*, which
 was to *make* *Penalties* and *Punishments* on *Officers* and
Soldiers who *should* *will* or *neglect* to *remove* out of
France in the *Time* of *Elections*, and to *substitute* *Words*
relating *Punishments* in the *Secretary* at *War*, in *Case*
 he *refuses* to *execute* the *Orders* for *such* *Removal*.

And it being proposed to agree with the Committee
 in the *Amendment*,

Consent to the *Order*, the *Question* was put
 And *Carried* in the *Affirmative*: And
 it was *resolved* in the *Affirmative*.

Resolved

1. *Resolved* we conceive, that the leaving out this
Clause is, in *Effect*, defeating the *Effect* and *Intention*
 of the *whole* *Bill*; a *Bill* thought to be necessary by the
whole *House*, that the *learned* *Judges* were unanimously
 ordered to prepare and bring it in, in *Lieu* of a *Clause*,
 to the *same* *Purpose*, offered to be inserted in the *annual*
Act to prevent *Mutiny* and *Desertion*.

2. *Resolved* we think it much more necessary, that
Officers and *Soldiers* should be subject to be tried by the
 Civil Power for an *Offence* of this high *Nature* against
 the *Constitution* in general, than for *quarantining* a *Man*
country to the *Method* prescribed by the *Act* to prevent
Mutiny and *Desertion*, for which *Crime* they are at pre-
 sent

sent liable to be tried and cashier'd by the Civil Magistrate.

2dly, Because we conceive, that this Offence, being an Offence of the highest Nature against the Civil Government, is properly cognizable by the Civil Magistrate only, and most improperly referred to the Determination of a Court-Martial: Offences against Military Discipline are justly reserved for the Decision of a Court-Martial, as consisting of Persons of the same Profession, and consequently the properest Judges; and by a Parity of Reasoning, we conceive, the Civil Magistrate is the fittest Judge of Civil Offences: We cannot therefore but fear, that a Court-Martial may consist of Persons who may be at least ignorant, and possibly hasty and partial Judges of the Merits of an Election.

4thly, Because the Intention of this Bill being to prevent any Insults from Troops during the Time of Elections, we should provide against all possible Dangers; and tho', during his Majesty's Reign, we apprehend no ill Use will be made of the Troops, yet, in future Times, Ministers may prevail, whose unpopular and detested Administration may leave them no Hopes of Security from a free elected Parliament, and reduce them to violent and illegal Methods of employing those Troops, kept up by the Corruption of one Parliament, in the forcible Election, or rather the Nomination of another: In which Case no Remedy can be hoped for against Officers so offending, since, as the Act now stands, they can only be tried by a Court-Martial, and a Court-Martial can only be appointed by the Crown; and consequently the same wicked Minister, who may hereafter advise such an Attempt upon our Constitution, will not be likely to permit his guilty Agents to suffer, but the Merits of their Crime will carry Impunity along with it.

5thly, Because we cannot conceive, that the Arguments drawn from the Possibility of a Riot at an Election, or of a Rebellion or Invasion during the Time of Elections, wherein the Assistance of the Military Power may be necessary, were in any Degree sufficient to induce the House to leave out this Clause; since in the Case of a Riot, the Civil Magistrate is already armed with a rigorous Penal Law, known by the Name of the

Riot-Act ; and in the Case of a Rebellion or Invasion, it is well known that this and all other Laws would be silent : But, on the other hand, we apprehend, great Inconveniencies may arise, if Troops have Liberty to march into Towns, during the Time of Elections, at the Requisition of a partial or corrupted Civil Magistrate, who may call a Majority he dislikes a Tumult, and supply with Force the Want of Interest of an unknown and unqualified Candidate ; by which means the Voice of the People may be drowned in the Noise of Arms.

6^thly, Because we apprehend, that a very injurious and dangerous Construction may, by malicious People (too speciously) be put upon the leaving out of this Clause, [That altho' the Unpopularity of rejecting the Bill itself could not be withstood, yet the eluding and enervating the Efficacy of it had been indirectly brought about.] Which Supposition, however groundless, may give great Uneasiness and Apprehensions to many of his Majesty's good Subjects, and bring very great Unpopularity upon the Administration ; an Evil, by all possible means to be prevented, since Hate begets Hate ; and an Administration once become unpopular soon becomes desperate, and may endeavour to strengthen their crazy and rotten Foundation, by tearing away, for their own Use, the Corner-Stones of the Liberties of the People.

Winchelsea &

Nottingham,

Berkshire,

Chesterfield,

Cobham,

Bridgewater,

R. Lincoln,

Beaufort,

Montjoy,

Boyle,

Huntingdon,

Clinton,

Bolton,

Thanet,

Carteret,

Craven,

Ker,

Litchfield,

Coventry,

Batburſt,

Shaſteſbury,

Haverſham.

We dissent for all the above-mentioned Reasons, except the third.

Angleſey,

Gower,

Foley,

Die Veneris 9^o Maii, 1735.

Hodie 2^a vice lecta est Billa, entitled, An Act for explaining and amending an Act passed in the Parliament

of

of *Scotland* in the Year 1701, entitled, *An Act for preventing wrong Imprisonment, and against undue Delays in Trials.*

Proposed to commit the Bill.

| | | |
|-----------|----|--|
| Contents | 28 | After Debate, the Question was put, whether this Bill shall be committed? It was resolved in the Negative. |
| Not Cont. | 68 | |

Dissentient

1st, Because we apprehend, a Bill of this Nature sent up from *the House of Commons* ought, at least, to have undergone the Form of a Commitment, since whatever was unnecessary or wrong in it might there have been left out or amended; but several Matters contained in the Bill seem to us highly expedient to be passed into a Law; for by the Law of *Scotland*, as it now stands, any Judge may, by a summary Warrant, commit Persons upon Information signed, without any Oath made, and without convening the Parties before him, or hearing what they can alledge in their own Justification, and send them to a remote Prison in any Corner of the Kingdom; no express Words in any Statute do at present forbid such a Practice: And we have great Reason to believe, that some Abuse of this unlimited Power did appear before *the House of Commons*, which might probably give the first Rise to the Bill.

2^{dly}, Because, as the *Habeas Corpus* Act is the great Security of the Liberties of this Part of the united Kingdom, it would be, in our Opinion, both unsafe and ungenerous not to extend the same Liberty to the other; for should they, who have hitherto been brave Assertors of their Liberties, find themselves exposed to Oppressions from which the rest of their Fellow-Subjects are secured by Law, Necessity may prompt them to attempt by Violence to free themselves, or Revenge provoke them to become the Instruments of Power, and bring us under the same Dependence; and the History of late Times sufficiently convinces us, that in those Reigns, when arbitrary Power was designed and attempted in this Kingdom, desperate and adventurous Agents were sent first to try the Experiment in *Scotland*.

3^{dly}, Because there was no Provision in the Bill to prevent an Abuse of seizing Persons on Pretence of Debt,

and detaining them till the Elections were over, where they had a Right to vote. The Protection granted by the Bill was no more than what every common Court of Justice actually allows to any Evidence whose Presence may be necessary in Matters of much less Consequence; and we cannot help testifying our Surprise, that this Regulation has not already been made over the whole united Kingdom; we hope, however, another Session will not pass without taking effectual Care to prevent such a dangerous Abuse of Law.

4^{thly}, Because Experience has shewn us the Benefits which arose by delivering the Subjects of that Part of the Kingdom from their Vassalage, and freeing them from a servile Dependence on their Superiors; and as (we conceive) the Purport of this Bill was nothing more than a natural Extension of the same Measure, it would have been the most probable, if not the only Method to eradicate any remaining Disaffection, tho' we have no Ground to suppose, from any late Transactions, that there is any such; on the contrary, those who were thought the most disaffected have lately appeared sufficiently tractable; but what Dissatisfaction the rejecting such a Bill may create, even amongst the best Subjects, and those who have always been most attached to the present Establishment, we cannot reflect upon without Concern; for as the Union was made in Support of the present Establishment, which is founded upon the Revolution, and the Revolution upon Principles of Liberty, they who have always asserted those Principles may (as we apprehend) justly complain, that the Liberty of the Subject is not equally secured in every Part of the united Kingdom.

5^{thly}, Because, we are apprehensive, it will appear very extraordinary to the World, That a Bill for the Security of the Liberty of the Subject should have been thrown out of this House without a Commitment, when so many Bills have passed for laying on, or continuing severe and heavy Duties upon them: Remote Apprehensions, barely possible, and Suspicions of Disaffection, have been Arguments formerly made use of on the Side of the Crown, for enacting the severest Penal Laws upon the Subject; and we conceive it still more incumbent

on the Legislature to be watchful over the Liberties of the People committed to their Care, since it is much easier to restrain Liberty from running into Licentiousness, than Power from swelling into Tyranny and Oppression.

6tly, Because Liberty being the common Birthright of all Mankind, and still preserved to this Nation by the Wisdom and Courage of our Ancestors, we think an Infringement of that Right, tho' but for an Hour, by wrongful Imprisonment, is not only an Injury to the Person immediately concerned, but a notorious Invasion of the Constitution: We should not deserve those Liberties ourselves, if we did not take the most effectual Methods to transmit them in their full Extent to latest Posterity, and to restrain by proper Laws any flagitious Attempts of Ministers, prompted by Ambition or drove by Despair, who may at any time hereafter endeavour to undermine or attack them: Humanity and Generosity particularly call upon us, who are distinguished by many Privileges and Advantages peculiar to ourselves, to secure to the People that Liberty which they have an equal Right to with us; a Blessing the meanest Subject of this Kingdom ought ever to enjoy in common with the greatest.

Chesterfield,

Oxford St Mortimer,

Montjoy,

Winchelsea and Nottingham,

Northampton,

Berkshire,

Cobham,

Stratford,

Bathurst,

Litchfield,

Boyle,

Foley,

Coventry,

Thames,

Gower,

Haverham,

Suffolk.

Die Mercurii 19^o Mail, 1736.

Hodie 3^a lecta est Billa, entitled, an Act for indemnifying Persons who have been guilty of Offences against the Laws made for securing the Revenues of Customs and Excise, and for enforcing those Laws for the future.

And, after a long Debate on the Merits of the Bill, it was proposed to add a Clause by way of Rider, in the Words following, *viz*

“ Provided always, That nothing in this Act contained shall extend, or be construed to extend, to restrain his Majesty's Court of *King's-Bench*, or any of the Judges thereof, or the Court of Jusiciary in *Scotland*, respectively, from bailing any Person committed for Felony by virtue of this Act, in such manner as they may by Law do in other Cases of Felony.

Which Proviso was read thrice by the Clerk, and agreed by the House to be made Part of the Bill.

| | | |
|-----------|----|---|
| Contents | 36 | } Bill, with the Amendment, shall pass? |
| Proxies | 18 | |
| Not Cont. | 32 | } It was resolved in the Affirmative. |
| Proxies | 14 | |

Dissentient

1st, Because some Parts of this Bill are so repugnant to the Laws and Constitution of this Kingdom, as we apprehend, that we could not, consistently with the Rules of Reason and Justice, concur in the passing of it, the Substance of one Clause in this Bill being to this Effect, *viz.* “ That upon Information before a Justice of Peace, that any Persons, to the Number of three or more, who are, or have been, after the 24th Day of *June*, 1736, armed with Fire-Arms, or other offensive Weapons, with Intent to run Goods, such Justice shall, and may, grant a Warrant to a Constable to apprehend such Persons; and if such Justice finds Cause, upon Examination, he shall, and may, commit them to the next County-Jail, there to remain, without Bail or Mainprize, until discharged by due Course of Law; or, upon Conviction, they are to be adjudged guilty of Felony.” Now as this Bill is to create a new kind of Felony, without Limitation of Time or Place, upon Principles unknown to our Law, we cannot but think it should be made so plain and clear, that the Judges in *Westminster-Hall* might determine upon it without Doubts or Difficulties; but we conceive, as this Bill stands, many Doubts may arise as to the Construction of it.

2^{dly}, Because we do not know of any one Act in the *Statute-Book*, whereby it is put in the Power of a single Justice

Justice of the Peace to commit Persons without Bail or Mainprize, upon a bare Information of an Intention, without any Proof: And altho' the House found it necessary to repeal so much of the Clause aforesaid as allows the Justices to commit without Bail or Mainprize, by adding a Rider to empower the Court of *King's-Bench* to grant Bail to Persons so committed, we cannot be of opinion, that the Objections to the Bill were removed, since the Power of Imprisonment still remains in the Hands of a single Justice of the Peace, upon a bare Information of an Intention to run Goods, without any other Overt-Act to prove that Intention than what may be a common and innocent Circumstance, *viz.* The riding three or more in Company with usual Arms, and no Limitation fixed either for Time or Place.

3dly, Because this Bill was altered in the Committee by the unanimous Consent of all the Lords present, and those Alterations were disagreed to upon the Report, without sufficient ground, as we conceive; and as two noble and learned Lords, who preside in the two greatest Courts of the Kingdom, shewed, by the strongest Arguments, that the Bill, as it now stands, may be dangerous to the Liberties of our Fellow-Subjects, we could not agree to the passing of it, however expedient or necessary it may be supposed in other Respects; being fully persuaded it would have been better to have left this Matter to the Laws now in being (already very severe) and to the Consideration of a future Session of Parliament, than to constitute a Precedent of such dangerous Consequence, and to enact a Law which, as we fear, may be attended with perpetual Grievances, Injustice, and Oppression.

| | | |
|--------------------|-----------------------|---------------------|
| <i>Shaftsbury,</i> | <i>Winchelsea and</i> | <i>Cobham,</i> |
| <i>Oxford and</i> | <i>Nottingham,</i> | <i>Foley,</i> |
| <i>Mortimer,</i> | <i>Thanet,</i> | <i>Strafford,</i> |
| <i>Weymouth,</i> | <i>Warrington,</i> | <i>Beaufort,</i> |
| <i>Litchfield,</i> | <i>Montjoy,</i> | <i>Coventry,</i> |
| <i>Bolton,</i> | <i>Bathurst,</i> | <i>Northampton.</i> |

Die Veneris 25^o Februarii, 1736.

The House being moved, That an humble Address be presented to his Majesty, to express the just Sense of
 T 5 this

tarded the Execution of these his gracious Intentions: From which short Delay his Majesty did not apprehend any Inconveniencies could arise, especially since no Application had, in any manner, been made to him, upon this Subject, by your Royal Highness; and that his Majesty hath now given Orders for settling a Jointure upon the Princess of *Wales*, as far as he is enabled by Law, suitable to her high Rank and Dignity; which he will, in proper time, lay before his Parliament, in order to be render'd certain and effectual for the Benefit of her Royal Highness.

The King has further commanded us to acquaint your Royal Highness, That altho' your Royal Highness has not thought fit, by any Application to his Majesty, to desire that your Allowance of fifty thousand Pounds *per Annum*, which is now paid you by Monthly Payments, at the Choice of your Royal Highness, preferably to quarterly Payments, might, by his Majesty's further Grace and Favour, be render'd less precarious; his Majesty, to prevent the bad Consequences which he apprehends may follow from the undutiful Measures which his Majesty is informed your Royal Highness has been advised to pursue, will grant to your Royal Highness, for his Majesty's Life, the said fifty thousand Pounds *per Annum*, to be issuing out of his Majesty's Civil-List Revenues, over and above your Royal Highness's Revenues arising from the Duchy of *Cornwall*, which his Majesty thinks a very competent Allowance, considering his numerous Issue, and the great Expences which do and must necessarily attend an honourable Provision for his whole Royal Family.)

And that to this Message his Royal Highness the Prince returned a verbal Answer, which, according to the best Recollection and Remembrance of the Lords, was in Substance as follows, *viz.*

(That his Royal Highness desired the Lords to lay him, with all Humility, at his Majesty's Feet, and to assure his Majesty, that he had, and ever should retain the utmost Duty for his Royal Person: That his Royal Highness was very thankful for any Instance of his Majesty's Goodness to him or the Princess, and particularly for his Majesty's gracious Intention of settling a Jointure

upon her Royal Highness; but that as to the Message, the Affair was now out of his Hands, and therefore he could give no Answer to it.

After which his Royal Highness used many dutiful Expressions towards his Majesty, and then added, "In deed, my Lords, it is in other Hands; I am sorry for it;" or to that Effect.

His Royal Highness concluded with earnestly desiring the Lords to represent his Answer to his Majesty in the most respectful and dutiful manner.

Which Message and Answer being read by the Lord Chancellor,

After long Debate upon the foregoing Motion,

The Question was put, whether such such an Address shall be presented to his Majesty?

Contents }
Proxies 12 } 40

Not Cont. 79 } 203
Proxies 24 }

It was resolved in the Negative.

Dissentient

1st, Because that this House has an undoubted Right to offer, in an humble Address to his Majesty, their Sense upon all Subjects in which this House shall conceive that the Honour and Interest of the Nation are concerned.

2^{dly}, Because the Honour and Interest of the Nation, Crown and Royal Family can be concerned in nothing more, than in having a due and independent Provision made for the first-born Son and Heir apparent of the Crown.

3^{dly}, Because in the late King's Reign one hundred thousand Pounds a Year, clear of all Deductions whatsoever, was settled upon his present Majesty, when Prince of *Wales*, out of a Civil-List not exceeding seven hundred thousand Pounds a Year.

4^{thly}, Because his present Majesty has granted to him, by Parliament, several Funds to compose a Civil-List of eight hundred thousand Pounds a Year, which, we have very good Reason to believe, bring in at least nine hundred thousand Pounds, and are more likely to increase than to diminish.

5^{thly}, Because out of this extraordinary and growing Civil-List, we humbly conceive, his Majesty may be able

able to make an honourable Provision for the rest of his Royal Family, without any Necessity of lessening that Revenue which, in his own Case when he was Prince of *Wales*, the Wisdom of Parliament adjudged to be a proper Maintenance for the first-born Son and Heir apparent of the Crown.

6thly, Because it is the undoubted Right of Parliament to explain the Intention of their own Acts, and to offer their Advice in pursuance thereof; and tho' in the inferior Courts of *Westminster Hall* the Judges can only consider an Act of Parliament according to the Letter and express Words of the Act, the Parliament itself may proceed in a higher Way, by declaring what was their Sense in passing it, and on what Grounds; especially in a Matter recent and within the Memory of many in the House, as well as out of it.

7thly, Because there were many obvious and good Reasons why the Sum of one hundred thousand Pounds *per Annum* for the Prince was not specified in the Act passed at that time, particularly his being a Minor and unmarried: But we do apprehend, that it is obvious that the Parliament would not have granted to his Majesty so great a Revenue above that of the late King, but with an Intention that one hundred thousand Pounds a Year should at a proper Time be settled on the Prince, in the same Manner as it was enjoyed by his royal Father when he was Prince of *Wales*: "And his Royal Highness being now thirty Years old, and most happily married, we apprehend it can no longer be delayed, without Prejudice to the Honour of the Family, the Right of the Prince of *Wales*, and Intention of the Parliament. And as in many Cases the Crown is known to stand as Trustee for the Public, upon Grants in Parliament; so we humbly conceive, that in this Case, according to the Intention of Parliament; the Crown stands as Trustee for the Prince, for the aforesaid Sum.

8. Because we do conceive, that the present Princess of *Wales* ought to have the like Jointure that her present Majesty had when she was Princess of *Wales*, and that it would be for the Honour of the Crown, that no Distinction whatever should be made between Persons of equal Rank and Dignity.

9. Because

9. Because we apprehend, that it has always been the Policy of this Country, and Care of Parliament, that a suitable Provision, independent of the Crown, should be made for the Heir apparent, that by shewing him early the Ease and Dignity of Independance, he may learn by his own Experience, how a great and free People should be governed. And as we are convinced in our Consciences, that if this Question had been passed in the Affirmative, it would have prevented all future Uneasiness that may unhappily arise upon this Subject, by removing the Cause of such Uneasiness, and giving his Royal Highness what we apprehend to be his Right; we make use of the Privileges inherent in Members of this House, to clear ourselves to all Posterity, from being concerned in laying it aside.

10. Lastly, we thought it more incumbent upon us to insist upon this Motion, for the Sake of this Royal Family, under which alone we are fully convinced we can live free, and under this Royal Family we are fully determined we will live free.

*Winchelsea and
Nottingham,
Berkshire,
Cobham,
Chesterfield,*

*Cardigan,
Marlborough,
Carterst,
Bridgwater,
Bedford,*

*Weymouth,
Bathurst,
Cownty,
Ker,
Suffolk.*

Die Martis 18^o Novembris 1739.

His Majesty this Day came to the House, and open'd the Session, and made a Speech.

Upon which a Motion was made, That an humble Address be presented to his Majesty, returning him the Thanks of this House for his most gracious Speech from the Throne. To congratulate his Majesty on his safe Return to his Regal Dominions. To assure his Majesty, that we will stand by him with our Lives and Fortunes, in the Prosecution of the just and necessary War in which he is engaged. And as a further Proof of our Duty and Affection to his Majesty's sacred Person, Royal Family and Government, to assure him, that we will exert ourselves in our high Capacity of hereditary great Council of the Crown (to which all other Councils are subordinate and accountable) in such a manner as may
best

best tend to the promoting the true Interest of his Majesty, and our Country, in this critical Juncture.

Another Motion was made that their Lordships should resolve, That an humble Address be presented to his Majesty, to return him the Thanks of this House for his most gracious Speech from the Throne. To acknowledge his Majesty's great Wisdom, and his Adherence to the true Interest of his Kingdoms, in resolving to carry on this just and necessary War in the most proper Places, and in the most vigorous and effectual Manner; and in not suffering himself to be diverted or deterred from those Measures. To give his Majesty the strongest Assurances, that if any Power should attempt to prescribe or limit the Operations of War against his declared Enemies, such an extraordinary Proceeding would not fail to create a just Indignation in us, and determine us to concur in all proper Measures for vindicating and defending his Dignity and Honour against any Insults, and frustrating any Designs formed against us. To assure his Majesty, that this House will zealously stand by and support him in adhering to the Engagements he is under for maintaining the Balance and Liberties of *Europe*, on the Event of the late Emperor's Death, as well as in the Prosecution of the present War. To express our unshaken and unalterable Fidelity and Affection to his Majesty's Person and Government, and our ardent Wishes, that all his Enterprizes for maintaining the Honour of his Crown, and the Rights of his People, may be blessed with Success.

In the Debate on these Motions it was proposed, to add to the second Paragraph of the first Motion these Words: [Or in any other War in which he may be necessarily engag'd, for maintaining the Balance and Liberties of *Europe*, on the Event of the late Emperor's Death.] And to leave out the Words: [To which all other Councils are subordinate and accountable:]

Contents 38

NotCont. 66

The previous Question being then put, it passed in the Negative;

Whereupon a Motion was made and the Question was put, by Way of Amendment, to insert immediately before the last Paragraph, these Words, *viz.* [And as a farther Proof our Duty and Affection to his Ma-

Majesty's sacred Person, Royal Family and Government, to assure him, that we will exert ourselves in our high Capacity of hereditary great Council of the Crown, in such a Manner as may best tend to the promoting the true Interest of his Majesty and our Country, in this critical Juncture.]

This Motion was disagreed to without any Debate:

And then it was proposed to agree to the second Motion without Amendment,

Whereupon the following Protests were entered, viz.

Dissentient

Macclesfield.

1st, Because we conceive, that a Motion of this Nature ought not to have been laid aside by the previous Question; but we apprehend it would have been more consistent with the Honour and Dignity of this House to have passed it in the Affirmative, since it contained the strongest Assurances of our Duty to his Majesty, and of our Zeal to support him with our Lives and Fortunes in the Prosecution of this just and necessary War; moreover, it had been universally allowed in the Debate, that the antient Usage of this House was to return immediately a general Address of Thanks only for the Speech from the Throne, and to appoint a future Day for taking the said Speech into Consideration: By which wise Method of Proceeding, this House had an Opportunity of forming their Judgment and offering their Advice to the Crown, upon the several Matters contained in the Speech after due Enquiry and mature Deliberation.

2^{dly}, Because, tho' the Speech from the Throne is in Parliament justly considered as the Act of his Ministers, yet a Motion pre-concerted, if not drawn by themselves, echoing back the Particulars of the Speech, is, as we conceive, a modern Expedient to procure a precipitate Approbation of Measures which might not be approved upon better Consideration. It was indeed alledged in the Debate, in support of this Practice, that it was introduced during the late War, in the Administration of the late Earl of Godolphin; but we should also consider the Reason of it, (we heartily wish we had now the same) that the Zeal of the House was then every Year anima-

ted

ted by the glorious Successes of the Queen's Arms under the Command of the Duke of *Marlborough*. And tho' it is always admitted that these hasty Addresses do not preclude the House from future Enquiries or Censures; yet should Censures, in Consequence of such Enquiries, become necessary, they would produce an Inconsistency between the first Address and the subsequent Resolutions, and argue a Levity highly unbecoming the Wisdom and Dignity of this House.

3dly, Because one Part of this Motion, the Congratulation upon his Majesty's safe Return to his Regal Dominions, could be liable to no Objection, but seemed at this Time peculiarly seasonable, since it was evident to the whole Kingdom, the Sailing of the Fleet, which had been delayed so long, was the immediate Effect of his happy Return.

4thly, Because we conceive, that our assuring his Majesty that we would exert ourselves in our high Capacity of hereditary great Council of the Crown, would have given Encouragement to his Allies, Confidence to his Armies, and Satisfaction to his Subjects, especially in this critical Conjunction, wherein the Advice of this House is more than ever necessary, since by the Inaction of this last Year in all Parts (except wherein Admiral *Vernon* commanded) notwithstanding the vast Fleets and Armies maintained at so immense a Charge, this just and necessary War seems hitherto to have been carried on by the same Spirit and Advice which so long delay'd the entering into it; and we conceive that the strictest Enquiries into such Conduct are the most probable Means of redressing our Grievances at home, and bringing the War abroad to a speedy and happy Conclusion.

| | | |
|-----------------------|-----------------------------|-------------------|
| <i>Buccleugh,</i> | <i>Stanhope,</i> | <i>Hallifax,</i> |
| <i>Chesterfield,</i> | <i>Bridgewater,</i> | <i>Beaufort,</i> |
| <i>Winchelsea and</i> | <i>Litchfield,</i> | <i>Talbot,</i> |
| <i>Nottingham,</i> | <i>Willoughby de Brook,</i> | <i>Greenwich,</i> |
| <i>Garret,</i> | <i>Shaftesbury,</i> | <i>Clifton,</i> |
| <i>Haverham,</i> | <i>Carlisle,</i> | <i>Denbigh,</i> |
| <i>Bathurst,</i> | <i>Craven,</i> | <i>Thanet.</i> |
| <i>Gower,</i> | <i>Aylesford,</i> | |

Then it was proposed to insert in the second stated Question, immediately before the last Paragraph, the Words of the first Question, except those in the Parenthesis, *viz.* “ To which all other Councils are subordinate and accountable.”

Which being objected to,

The Question was put, Whether these Words shall be
Contents 35 inserted.

Not Cont. 62 It was resolved in the Negative.

Dissentient

Because when these Words made Part of the Question first moved, they were allowed by every Lord, who spoke in the Debate, to be proper and unexceptionable, and the following Parenthesis only (“ To which all other Councils are subordinate and accountable”) was objected to, as liable to a Misconstruction in another House; we cannot therefore but be surprized, that when this Question, freed from that Shadow of an Objection, (as we conceive) was offered as an Amendment to the Motion for an Address, it should have been rejected; and the more so, since the Negative passed upon it may be construed to imply, what we are persuaded no Lord in this House can intend, (whatever others may wish) “ a Resolution not to enquire, advise, or censure, even tho’ just Suspicions, imprudent Councils, or criminal Measures should require it.”

Subscribed, &c. as before.

Eodem Die.

A Motion was made, “ That an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions, that there be laid before this House Copies of all Letters written by Vice-Admiral *Vernon* to the Commissioners for executing the Office of Lord High Admiral of Great-Britain, on their Secretary, and to his Majesty’s principal Secretaries of State, from the Time of his sailing from *England* in the Year 1739, to the 24th of *June* last; and also Copies of all Letters written by the said Commissioners, or their Secretary, and the principal Secretaries of State, to the said Vice-Admiral, within the said Time.”

Then

Then it was proposed to add the following Words, to the former Motion by Way of Amendment. “ So far
 “ as such Letters relate to any Supplies of Ships, Men,
 “ Stores, Ammunition, Provisions, or other Necessa-
 “ ries.”

And Debate being had thereupon; the Question was then put, and the Motion carried with the Amendment.

Which produced the two following Protests, *viz.*

Dissentient’, To the Negative put upon the first.

1st, Because we conceive, that the calling for all Instructions given to Generals and Admirals, is not only proper and preceded, but is also a necessary Step towards the Exertion of our Privilege, as hereditary Counsellors for advising the Crown, which Privilege can be properly exercised only in Matters depending. And, if from pretended Apprehensions of unseasonable Discoveries, Instructions are to be kept secret from this House, till after they have had their Effect, the Weakness or Guilt of the Measures of an Administration will appear probably too late to punish the Offenders, but certainly too late to prevent the Mischief.

2^{dly}, Because we do not find any Negative put upon Motions for Instructions before the Year 1721; from which Time, indeed, Instructions began to be of such a Nature, that we do not wonder their Authors desired to conceal them. The Instructions by which our Fleet lay in shameful Inaction before *Gibraltar*, when besieg’d, and suffered the Enemy’s Ships to bring Ammunition and Provisions to their Army, and those by which three Admirals, about thirty Captains, above one hundred Lieutenants, and four thousand private Seamen, perished most ingloriously at the *Bastimentos*, create, as we conceive, a just Suspicion of all subsequent Instructions flowing from the same Source, and, in our Opinion, evince the Necessity of the strictest Enquiry, and most ample Informations in this important Conjunction.

3^{dly}, Because the Motion under the Limitations which accompanied it, was not even liable, as we apprehended, to the modern Objection of making improper Discoveries of future Designs; and it is impossible to conceive, that when Admiral *Vernon* sailed from hence with so small a Force as five Ships only, and be-

fore

fore the long-wish'd-for Declaration of War, that his Instructions could contain any Thing more than Orders for Reprisals: Since, considering his insufficient Force, any Orders to attempt even what he so happily and unexpectedly executed, would have been contrary to the Genius, and inconsistent with the too long-experienced pacific Disposition of the Administration.

41bly, Because, that as the *West Indies* were allowed by all Lords in the Debate to be the proper Scene of Action, we think it our Duty more particularly to attend to the Conduct of the Administration in those Parts; especially since, from the Time of the Declaration of War, till very lately, that important Scene of Action seems to have been neglected or forgot; while, as we apprehend, the slightest Alarms have been fondly credited as Reasons for keeping our numerous Forces at home, to the Oppression of the People; whereas a small Proportion of them, timely employed in the *West-Indies*, against a then unprepared and unprovided Enemy, might probably have enabled Vice-admiral *Vernon* to have brought this just and necessary War to a speedy and happy Conclusion.

5tly, Because we apprehend that the Denial of these necessary Lights in the first Step of the Enquiry, not only casts a Damp upon the Enquiry itself, but must also lessen the Weight of any Resolutions that may be taken in the Course of it. The Nation that so unanimously expects and calls for an Enquiry into a Conduct, which at best seems to them unaccountable, if not blameable, will be confirmed in whatever Suspicions they might entertain, when the Lights necessary to remove those Suspicions are denied; and should we come to any Vote of Approbation, such a Vote may perhaps be misconstrued to be an influenced Compliance to the Administration, the dictated Result of a pretended Enquiry founded only upon imperfect Facts, and partial Representations.

Bathurst,

Chesterfield,

Carlisle,

Bridgewater,

Middleton,

Aylesford,

Willoughby de Brocke,

Tbanet,

Denbigh,

Bristol,

Greenwich,

Westmoreland,

Shaftsbury,

Cobham,

Haverſham,

Talbot,

Litchfield,

Hallifax,

Gower,

To.

To the Amendment made to the second:

Dissentient.

Because we conceive those restrictive Words will prevent the House from receiving that Information which we think absolutely necessary: For if Vice-Admiral *Vernon*, in any of his Letters, has given it as his Opinion (as it is generally believed he has) that with a moderate Number of Land-Forces he could have made such important Conquests in *North-America*, as would have brought our Enemies before this Time to sue for Peace, this House had, as we apprehend, a Right to see such Letters, without which, we conceive, this Enquiry can only tend to detect the Negligence or Corruption of inferior Officers, and the capital Errors of the Ministers themselves may remain concealed.

Signed as before ———

Die Martis, 8^o Decembris, 1740.

A Motion was made, “ That Copies of the several
“ Instructions given to Rear-Admiral *Haddock*, from the
“ Time of his sailing from *England* in the Year 1738,
“ to the 24th of *June* last, be laid before this House.”

And after Debate had thereupon, the Question was
Contents 41. then put upon the said Motion.

Not Cont. 58. And it was resolv'd in the Negative.

Dissentient'

“ 1. Because we conceive that there never were In-
“ structions more necessary to be examin'd, than those
“ contain'd in this Question, in order to enable us to
“ discharge our Duty, both as Countessors to his Majesty,
“ and Guardians of the Nation.

“ The known and astonishing Inaction, for the Space
“ of above Two Years, of a great and powerful Fleet,
“ fitted out and maintain'd at an immense Expence to
“ the Nation, fixes a heavy Charge either upon the Com-
“ mander of that Squadron, or upon those who gave
“ him his Instructions. But when we compare the ex-
“ perience Courage and Abilities of Rear-Admiral
“ *Haddock*, upon all former Occasions, with the inglo-
“ rious Instructions given by this Administration to the
“ several Admirals employ'd for these last Twenty Years,
“ we cannot, as at present inform'd, but impute this

“ un-

“ 4. Because we conceive, that the Denial of these
 “ necessary Lights, puts a full Stop to any farther ef-
 “ fectual Enquiry into the Conduct of the War; an En-
 “ quiry so becoming this House, and so unanimously
 “ called for by the Voice of the Nation, that outward
 “ Appearances have at once raised the Curiosity, the
 “ Astonishment, and the Concern of a brave and a loy-
 “ al People, willing to sacrifice their Lives and Fortunes
 “ for the Honour and Advantage of his Majesty and
 “ this Kingdom, in the Prosecution of this just and ne-
 “ cessary War: And we conceive that they ought, by
 “ the strictest Enquiry, upon the fullest Informations,
 “ to have been satisfied as to the past, and secured as to
 “ the future. And we think, that all minute Enquiries
 “ into the little Abuses of inferior Officers, over whom
 “ it is the Duty of the Administration to watch, would
 “ be only amusing and deceiving Mankind with the
 “ Name of an Enquiry, and descending from our Digi-
 “ nity of Counsellors of the Crown, and Checks of the
 “ Administration, to the low Rank of *Inquisitors* into
 “ the Conduct of petty and unprotected Offenders. We
 “ therefore think, that we have discharged our Duty
 “ to his Majesty and the Publick, in having moved for
 “ for those Papers, which we considered as the Founda-
 “ tions absolutely necessary for a proper and effectual
 “ Enquiry. We here enter our Dissent upon the De-
 “ nial of those Papers; the World must then judge of
 “ the Conduct of the War, upon the Appearance of
 “ Facts and Circumstances; with this considerable, ad-
 “ ditional Circumstance, *That Lights were denied.*”

Litchfield,
 Carlisle,
 Haverſham,
 Hallifax,
 Thanet,
 Oxford,
 Greenwich,
 Northampton,
 Gower,
 Cobham,

Bridgwater,
 Falmouth,
 Talbot,
 Bathurst,
 Suffolk,
 Hereford,
 Willoughby de Brooke
 Cheſterfield,
 Briſtol,
 R. Lincoln.

Shaftsbury,
 Abingdon,
 Denbigh,
 Middleton,
 Aylesford,
 Montjoy,
 Ward,
 Berksbire,
 Weſtmoreland.

Die Veneris, 9^o Decembris, 1740.

A Motion was made, That the augmenting the Army by raising Regiments, as it is the most unnecessary and most expensive Method of Augmentation, is also the most dangerous to the Liberties of the Nation.

After Debate, the previous Question was put, whether the said Question shall be now put?

It was resolved in the Negative.

On which Occasioned was entered, the following

Disjunctum

1. Because we conceive, That this Motion ought not to have been laid aside by the previous Question, the Arguments urged in the Debate against our coming to this Resolution at this Time, being, in our Opinion, highly insufficient: since we cannot apprehend what further Lights could be had with Relation to the several Propositions contained in the Question, than those we received in the Debate, authorized by the Usage of almost all the Nations in Europe; nor were there any particular Papers or Treaties as necessary for the Information of the House: and we thought this the properest Time to come to this Resolution, before any Steps were taken as to the Method of making the intended Augmentation.

2. Because it was proved in the Debate, and universally admitted, that the Augmentation of our Land-Forces, by the raising of new Corps, was by near one Third, a more expensive Manner of Augmenting, than by additional Men to Companies. A Consideration which, in our Opinion, ought to have the greatest Weight, at this Time, when the Nation is engaged in a new War, and has grown up under all the Burthen of the last, though after thirty Years Peace.

3. Because, considering that the Oeconomy of Augmenting the Forces by additional Men in Companies was admitted, that the Utility of it was not disproved, we cannot help suspecting, that the raising new Corps at this Time, when the Election of a new Parliament draws so near, may be of a dangerous Tendency to the Constitution of this Kingdom, and relate more to Civil than

Military

Military Service, especially since there are now no Officers to be found (the Officers now remaining upon Half pay, having been already judged, by the Administration, unfit for Service) it is, in our Opinion, opening a Door to introduce a large Body of commissioned Pensioners. These Suspicions are strengthened by the Experience we have had, That no Rank has been either above, or below ministerial Resentment, and the Severity of Parliamentary Discipline ; and we must with Concern observe, that the Honour of the Nation, and the Fate of this important War, has been intrusted to raw and new levied Troops, in order, as we apprehend, to keep the others at home, only for civil Purposes.

| | | |
|------------------------------|---------------------|----------------------|
| <i>Westmoreland,</i> | <i>Northampton,</i> | <i>Shaftsbury,</i> |
| <i>Suffolk,</i> | <i>Abington,</i> | <i>Chesterfield,</i> |
| <i>Willoughby de Brooke,</i> | <i>Halifax,</i> | <i>Carlisle,</i> |
| <i>Oxford,</i> | <i>Greenwich,</i> | <i>Bathurst,</i> |
| <i>Cobham,</i> | <i>Middleton,</i> | <i>Gower,</i> |
| <i>Bridgewater,</i> | <i>Hereford,</i> | <i>Bristol,</i> |
| <i>Litchfield,</i> | <i>Thanet,</i> | <i>Berkshire,</i> |
| <i>Aylesford,</i> | <i>Talbot,</i> | <i>Haversham.</i> |

Die Jovis, 28^o Januarii, 1740.

It was moved to resolve, That an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions to the proper Officers, to lay before this House, such Representations, as have been made by Vice-Admiral *Vernon*, in any of his Letters to his Majesty's Principal Secretaries of State, or to the Commissioners of the Admiralty, in relation to the Want of Ships, or more Men, or any Intimations of Service he could have performed, if he had been supplied with a few more Ships, and some Land-Forces.

The same was objected to, and after
 Contents 44 Debate thereupon, the Question was put,
 Not Cont. 71 Whether such an Address shall be presented to his Majesty ?

It was resolved in the Negative.

Dissentient'

Because we conceive, that the House entered into this Enquiry, with a View to form a proper Judgment on the
 U Conduct

Conduct of the War ; and some Extracts of Letters, have been laid before us, but such, as we apprehend, do not even answer the Demand of the House much less the End of the Enquiry ; yet it appears plainly, from those few Extracts, that Admiral *Vernon* has made frequent and grievous Complaints of the Insufficiency of the Stores, and has represented them as fit only for a *Spithead Expedition* : We have therefore the strongest Grounds to be persuaded, that in some of his Letters, he has made Demands of more Ships, and more Men, tho' nothing relating to those Articles has been laid before us hitherto. Had he been sent out with a greater Force at first, or had fresh Succours of Ships and Men with proper Stores, been sent after him in due time, we are firmly of Opinion, that he would have gained such further Advantages as might long before now have proved decisive, but by the dilatory Proceeding of the Administration, as it appears to us, the Scene is much changed ; the *Spanish* Fleet has been suffered to sail out of their Ports, to carry Supplies of all Kinds to their Garrisons ; Opportunity has been given them to repair their Fortifications in *America* ; and, which is still of more Consequence, as we fear, to procure the Assistance of another Power, who was not ready, if willing, at that Time, to give us any Disturbance in those Parts.

*Greenwich,
Bathurst,
Bridgwater,
Carlisle,
Bruce,
Gower,
Aylesford,
Beaufort,
Abingdon,*

*Berkshire,
Shaftsbury,
Foley,
Middleton,
Suffolk,
Haversham,
Buccleugh,
Hereford,
Litchfield.*

*Exeter,
Mansel,
Thanet,
Montjoy,
Westmoreland,
Ker,
Cobham,
Denbigh,*

Contents 43
Not Cont. 68

Then it was proposed to order, that a Secret Committee be appointed to enquire into the Conduct of the War, consisting of all the Lords of this House who are of his Majesty's most honourable Privy-Council. Which being objected to, after further Debate, the Question was put upon the second Proposition, and,

It was resolved in the Negative,

Dissentient

Dissentient

1st, Because the Necessity of Secrecy, and the Danger of communicating Matters of Importance, to so numerous an Assembly as this House, having been constantly urged as the only Arguments, for refusing the Lights absolutely necessary for carrying on, with any Hopes of Success, our Enquiry into the unaccountable Conduct of the War, we thought the proposing of this Committee would fully have obviated those Objections by confining the Knowledge of those Secrets, (if any such there be amongst those who by the Constitution are suppos'd and appointed to be informed of them) and the Negative put upon this Motion, gives us but too just Reason to suspect, that the most material Transactions, with relation to this War, have even been concealed from those, who, by their Situations, ought, in the very first Instance, to have been consulted.

2^{dly}, Because the so often urged Argument of Secrecy proves too much, and may as often without, as with Reason, be used in Bar of all Enquiries, that any Administration, conscious either of their Guilt, or their Ignorance, may desire to defeat. It may not only prove the Security, but the Cause of a Sole Minister, Secrecy, being undoubtedly best observed by one; and such a Sole Minister, may, by the same Reasoning, as well refuse the Communication of Measures to the rest of his Majesty's Council, and thereby engross a Power inconsistent with, and fatal to, this Constitution; and we cannot help observing, that such a timorous and a scrupulous Secrecy, is much oftener the Refuge of Guilt, than the Resort of Innocence.

Signed by the same Lords as before.

Die Martis 3^o Februarii, 1740-1.

The Order of the Day being read, for taking into Consideration the several Estimates of the Charge of the Guards, Garrisons, and other Land Forces, the Charge of his Majesty's Forces in the Plantations, *Minorca* and *Gibraltar*, and the Charge of Seven Regiments of Foot, and four Regiments of Marines, to be raised for the Year 1741, laid before this House, the 19th of January last.

THE HOUSE OF COMMONS. That in humble Address he
presents to his Majesty, James representing to his
Majesty that the House cannot conceive the intended
negotiations of Peace to be necessary, either
from the late situation of Affairs in Europe, or from
any other late late sources, such as have always
been a sufficient reason for our Acquiescence, to justify the
present extraordinary Expenditure on the Subject: And
that having received his Majesty, that if he should
be so good as to give his Majesty absolutely re-
solved to be well as well as personally pleased, as well
as the safety and the Peace of his Subjects,
that he should be made in the most proper Manner, by
the House of Commons, to the present Regi-
ment of his Majesty, that his own Wisdom and
the safety of the Kingdom of Great Britain, may
be preserved in the proper manner for Military Service, and least
any other in the Kingdom.

After being rejected so, after long De-
bate however, the Question was put,
whether the Address shall be pre-
sented to a Meeting?

∴ $\frac{1}{\sqrt{2}}$ results in the Negative.

I declare we require, there, nothing less than an
army of 100,000 men. We require, besides, with us, to
maintain the peace of our Island-Forces, which
is not sufficient for any
purpose, being very
small, and the present Establishment, during the
late War, the National
Army, (relative of those in Ireland)
was but 100,000 men. Whereas our greatest
Army, in the late War, was but
100,000 men. Whereas, which, re-
lates to the present Establishment, makes
the present Establishment, and the present intended
Army, is such an Exceeding as
the late War, and the late public Dangers;
either from the
we have obtained,
the more Force in the Hand of an
Admini-

Administration (which as far as we are able to recollect) have not hitherto employ'd any they have been so trusted with to the Honour and Advantage of the Nation. Extraordinary Trust and Confidence ought, as we apprehend, only to be placed in such, who, by the Experience of their past Conduct, have justly established their Credit, and entitl'd themselves to be so trusted. But when we look back upon the several Augmentations within these last Twenty Years, demanded and granted upon Causes more strongly asserted, than clearly proved, but visibly without any good End ever attained; and particularly when we reflect that by a most unaccountable Fluctuation and Contrariety of Measures, a very great Augmentation was made in the Year 1727, to act in Conjunction with *France*, against the House of *Austria*, for whose Defence the present Augmentation is said to be principally intended: We thought it our Duty to endeavour to prevent any unnecessary Increase of our Land-Forces, not being influenced either by the pretended Apprehensions, or real Fears of an Administration, the Boldest in Domestic, but, as we apprehend, the most Pusillanimous in Foreign Transactions.

2dly, Because we conceive, that Dangers alledged from Disaffection at Home, are, in a great Measure, groundless; no Symptoms of such Disaffection having appear'd for many Years, and the Principles upon which it was formerly grounded, being almost universally worn out and exploded. And we find it highly necessary to distinguish between Disaffection arising only from the Conduct of the Administration, and Disaffection to his Majesty and his Royal Family, tho' some may desire to blend them. For had the present General Dissatisfaction at the inglorious, tho' burthensome Measures of the Administration, been, in truth, Disaffection to his Majesty, as hath been often falsely suggested by those who desire to confound his Cause with their own, twice the Number of Troops now proposed would not be sufficient to secure the Peace of the Kingdom; but, on the contrary, we are persuaded, that the Duty and Loyalty of the Nation to his Virtues, have check'd and kept the Dissatisfaction against the Administration within the due Bounds of Concern and Lamentation.

3^{dly}, Because, considering the Advantage of our Situation, as an Island, and our Superiority at Sea, it is impossible for us to think ourselves in any Danger of an Invasion from *Spain*, even if those Fleets were now in their Ports, which we suffer'd them to send to *America*: Nor can we conceive, that about 28,000 effective Men, not actually in this Kingdom, with all the Advantages of Horse and Artillery, is not Force sufficient to secure us from any Body of Foot, that any other Power could possibly land on our Coasts by Surprise. And, as for any great Embarkation, it can neither be made on a sudden, nor in Secret; we must have timely Notice to provide superior Fleets, (which, in such a Case, we presume, would be allow'd to act) to strengthen our own Corps, and render such an Attempt wholly impracticable: In which Opinion we are the more confirmed, because that in the most glorious Year of the last War, when the Duke of *Marlborough* and his Army were in the middle of *Germany*, out of the Reach of giving us any Assistance at Home, it was not thought necessary, by the wise Administration of that Time, to keep above 9000 Men in this Island, for our Defence against *France*, then irritated by our Successes; and surely, three times that Number must be now abundantly sufficient, unless more are wanted for Purposes not thought of by former Administrations, nor yet openly avow'd by this.

4^{thly}, Because, whatever Demands may be made upon us by our Allies on the Continent, we conceive may be answered by the Foreign Troops now in our Pay; and should any further Assistance to them be necessary, it will not only be cheaper, and safer to us, but more advantageous and agreeable to those Powers themselves, that we should furnish our Quota's in Money, with which they may raise a greater Number of Men than we are obliged to supply.

5^{thly}, Because it has been undeniably proved, that this Method of Augmentation by new Corps, is, by one third, more expensive than that of adding private Men to Companies, the Expence of raising those 5705 Men amounting to 116,322 l. 14 s. 2 d. whereas 5780, raised by additional Men to Companies, with a Second

Lieutenant to each Company, would have amounted but to 86,992 *l.* 15 *s.* which would be not only a present Saving of 29,329 *l.* but a future saving of 10,134 *l.* *per Annum*, upon the Half pay of the Officers of those Seven Regiments, the few Officers taken out of the Half-pay only excepted. And we think, that at a Time when the Public Expence is so very considerable, the strictest Oeconomy is requisite; the better to enable a burden'd and indebted Nation to continue those Expences, that may be more necessary to be borne, than easy to be supply'd. And, as to the Advantage of the Service, the Facts plainly proved in the Debate, together with the Practice of most other Nations in *Europe*, and, in particular, of his Majesty's Electoral Dominions, convince us, that if this Augmentation was made by additional Men to Companies, with a proper Increase of Sergeants and Corporals, the Military Service, at least, for which alone it ought to be intended, would be better carried on than by the Methods now to be pursued.

6thly, Because Arguments drawn from the Usage of *France*, we conceive, do not hold with relation to us, it being well known, that the Expence of 150,000 *French* Troops do not amount to more than 500,000 *English*; that their Government, tho' once limited, is now absolute and Military. That the Poverty of their numerous Nobility forces them into the Army, where the Court is glad to engage and keep them in Dependence; and that no Danger can arise to that Constitution from the Civil Influence, which may attend such an Establishment, their Parliament being only nominated by the Crown, and long since reduc'd, by Ministerial Arts, from their original Power and Dignity, to be no more than Courts of Justice and Revenue.

7thly, Because we apprehend that this Method of Augmentation by new Corps, may be attended with Consequences fatal in Time of our Constitution, by increasing the Number of Commissions which may be disposed of with Regard to parliamentary Influence only. And when we look back upon the Conduct of the Administration, in relation to military Affairs, we have but too much Reason to suspect, that parliamentary

Consideration have of late been the principal Causes of Favour and Disgrace. We have lately too, seen new raised, raw, and undisciplined Regiments sent abroad upon the most important Services, and others, seemingly much fitter for such Services, peaceably encamped at home, for no other Reason, as is generally supposed, than the different Situation of the respective Officers of the several Corps : But this, at least, is certain, that in all the new raised Regiments sent to *America*, there is but one single Member of Parliament which could hardly have been the Case of any equal Number of Regiments in the whole Service. And what further induces us to entertain those Suspicions is, that this Method of Augmentation, by one Third the most Expensive, and by no Means proved to be the most conducive to the Service, should be preferred at this Time, when an Oeconomy proportion'd to the Greatness of our Expences, seems particularly requisite ; since the War, by our Inaction hitherto, and the Advantages thereby given to the Enemy, may now probably be of long Duration, if not of doubtful Success. Our Distrust of the Motives of this Augmentation, which creates at once 370 Officers, which by the Removals in the Army may occasion three Times that Number of new Commissions, ought to be the greater, and our Care to prevent the ill Effects of it the more vigilant, so near the Election of a new Parliament ; a Crisis, when any Increase of Influence gained to a Minister, may give a decisive and incurable Wound to this Constitution. And we cannot forget that an Augmentation of 8040 Men was likewise made the very Year of the Elections of the present Parliament, by bringing over eight Regiments from *Ireland*, and by additional Men to Corps in *Britain*, which Time has since shewn were never intended for foreign Service, though they were said to be designed for the Preservation of the Dominions of the House of *Austria*, which we then lay under the same Engagements both of Interest and Treaties to defend. The Number of Officers in Parliament has gradually increased, and is now more considerable than ever ; and though we think the Gentlemen of the Army as little liable to undue Influence as any other Body of Men, yet we think it would be very impru-

imprudent to trust the very Fundamentals of our Constitution, the Independency of Parliaments, to the uncertain Effects of Ministerial Favour or Resentment. And as it is well known that the four eldest Officers of the Army, (the only Officers who have served in any high Rank abroad) are now displaced, without any Crime having ever been alledged against them, we have great Cause to dread, that an Army thus circumstanced, and thus influenced, would, in each Capacity, be fatal to our Liberties, since Ministerial Art in Parliaments can alone destroy the Essence of our Constitution, and open Violence alone, the Forms of it.

| | | |
|----------------------|----------------------|-------------------|
| <i>Ward,</i> | <i>Montjoy,</i> | <i>Gower,</i> |
| <i>Buccleugh,</i> | <i>Aylesford,</i> | <i>Carlisle,</i> |
| <i>Denbigh,</i> | <i>Chesterfield,</i> | <i>Foley,</i> |
| <i>Westmoreland,</i> | <i>Halifax,</i> | <i>Thanet,</i> |
| <i>Exeter,</i> | <i>Shaftsbury,</i> | <i>Ker,</i> |
| <i>Bridgwater,</i> | <i>Cobham,</i> | <i>Hereford,</i> |
| <i>Greenwich,</i> | <i>Batburst,</i> | <i>Mansel,</i> |
| <i>Bristol,</i> | <i>Litchfield,</i> | <i>Masham,</i> |
| <i>Berkshire,</i> | <i>Beaufort,</i> | <i>Talbot,</i> |
| <i>Falmouth,</i> | <i>Macclesfield,</i> | <i>Haversham.</i> |
| <i>Abingdon,</i> | <i>Bruce,</i> | |
| <i>R. Lincoln,</i> | <i>Bedford,</i> | |

Die Mercurii 19^o Maii, 1740.

It was moved to resolve, that an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions to the proper Officers to lay before this House all the Powers, Instructions, Memorials, Letters and Papers relating to the Convention concluded between *Great Britain and Spain*, dated at the *Pardo*, January 14, 1739, N. S.

A Question was stated upon the said Motion. After Debate the Question was put, Whether such an Address shall be presented to his Majesty?

It was resolved in the Negative.

Dissentient

1st, Because we thought an Enquiry into a Transaction of such great Importance to the Honour, Trade and Rights of this Nation, not only necessary, but to-
 rally

will be free from all the Objections usually made to the Calling for Papers. The Convention having been concluded January 1739, and War having been since declared against Spain, so that we cannot conceive, that any Discovery prejudicial to this Nation, or advantageous to any other, can possibly result from an Examination into the minutest Particles of that Negotiation: but we rather apprehend from the manifest Unwillingness of the Administration to lay any such Lights before us, that Discoveries of another Nature would be an necessary Consequence of the Communication of the Papers called for upon this Question.

2^d. Because, when we compare the Conduct of the Administration thro' the whole Course of the *Spanish Affairs*, with several Circumstances that have accidentally appeared to the Public, we conceive every Part of that Conduct liable to just Suspensions of one Kind or other. The repeated Application of the Merchants, both to the Crown and to Parliament, for Reparation for the past Losses, and future Security for their Trade, the universal Cries of the Nation upon their insulted Honour and violated Rights, the several Addresses of Parliament to the Crown, and the gracious Answers and Assurances given by the Crown in Return, seemed all to promise a just (and at that Time easy) Vengeance by the Force of our Arms, or an effectual Reparation of past and solid Security against future Injuries, by an advantageous Treaty of Peace, whereas a Convention only was concluded, by which a scanty and insufficient Reparation for our injured Merchants was stipulated, and our most essential and undoubted Rights of a free Navigation to the *West-Indies* without Search or Molestation, was at most referred to the future Discussion of Plenipotentiaries, if even it was ever mentioned at all.

3^d. Because it has been asserted in a public Paper dispersed all over *Europe* by the Court of *Spain*, that our Intention to a free Navigation was never so much as mentioned by our Ministers, till the Conferences arising in Consequence of the Convention, and that the Demand was never made in Form till *July 1739*, which was after the Convention was broke by the Non-Payment of the Money stipulated on the appointed 24th of
May.

May, and though we are far from asserting the Contents of such Papers to be true, yet, as they cannot but raise some Doubt, that alone, in a Matter of such great national Consequence, seems to be a sufficient Reason for a strict Enquiry, especially since we cannot see any Advantage that could arise to the King of *Spain* from asserting these Facts, if they were not true; but on the other Hand we see very strong Reasons why the Administration should desire to conceal them, if they are true.

4^{thly}, Because if the bare Supposition of Cases that may possibly exist, is to be used as an Argument why the House should not apply for Lights, we conceive that the Supposition of other Cases equally possible, and it may be more probable, is as good an Argument why the House should apply for such Informations; consequently, if we suppose that the Convention concluded at *Madrid*, *January* 14, 1739, was originally negotiated and executed at *London* in *August* 1738, with the *Spanish* Minister then residing here, but that upon *Spain*'s inserting in the Body of the Ratifications of that Convention, an Act obliging our *South-Sea* Company to pay the Sum of sixty-eight thousand Pounds towards the Reparation to be made to our Merchants, which Act was then intended to be kept secret, though since discovered by the necessary Communication of it to the *South-Sea* Company, and their Non-compliance therewith; if we suppose that thereupon the same Treaty was re-executed by our Minister at *Madrid*, who was instructed at the same Time, to consent to an Act of the same Import, but varied only so as to conceal it; and if we further suppose that this Sacrifice of the *South-Sea* Company was originally proposed by one *English* Minister to the *Spanish* Minister, and upon his accepting it, rejected in an Office-letter by another *English* Minister, tho' afterwards brought into Execution; and if these Suppositions are in a great Measure confirmed by some of Mr. *Keen*'s Letters, which have been made public, we conceive such Transactions ought not to be buried in Oblivion, and the Author and his Accomplices remain uncensured.

5^{thly}, Because we conceive the Argument of its being too late in Point of Time; can be of no Force, and only tends to prove that the House will think no Time proper

proper for calling for such Papers. Some have been refused to be called for by the House, because they related to the present Time, and whilst Matters were in Transaction, a Discovery might be dangerous; others, because they related to future Operations, and there also a Discovery of Designs might be detrimental. The present Motion related to Matters entirely pass'd, which being rejected, we must give up all further Hopes of receiving any Lights, relating either to past, to present, or to future Transactions. Posterity must therefore be convinced, that we have been reduced to the Necessity of taking Matters in the Gross, and of weighing the Sum of Things, since the Particulars are hid from our Sight.

*Carlisle,
Northampton,
Suffolk,
Mansel,
Gower,
Cobham,
Greenwich,*

*Bruce,
Mafson,
Ker,
Falmouth,
Westmoreland,
Exeter,
Clinton,*

*Batburst,
Aylesford,
Macclesfield,
Ward,
Hereford,
Litchfield,
Beaufort.*

Die Jovis 13^o Februarii, 1740.

The remarkable Debate, which lasted two Days, upon the following Question, *viz.* Whether an humble Address should be presented to his Majesty, that he would be graciously pleased to remove the right honourable Sir *Robert Walpole*, Knight of the most noble Order of the Garter, first Commissioner for executing the Office of Treasurer of the Exchequer, Chancellor and Under-Treasurer of the Exchequer, and one of his Majesty's most honourable Privy-Council, from his Majesty's Presence and Councils for ever.

| | | | |
|-----------|----|-------|---|
| Contents | 47 | } 59 | The Question being put upon the Motion, it was carried in the Negative. |
| Proxies | 12 | | |
| Not Cont. | 89 | } 108 | |
| Proxies | 19 | | |

Dissentient

1st, Because we are persuaded that a sole, or even a first Minister, is an Officer unknown to the Law of *Britain*, inconsistent with the Constitution of this Country, and

and destructive of Liberty in any Government whatsoever; and it plainly appearing to us, that Sir *Robert Walpole* has, for many Years acted, as such, by taking upon himself the chief, if not the sole Direction of Affairs, in the different Branches of the Administration, we could not but esteem it to be our indispensable Duty, to offer our most humble Advice to his Majesty, for the Removal of a Minister so dangerous to the King and the Kingdoms.

2dly, Because we think it appear'd in the Debate, that, in many Instances, of infinite Consequence to the Interest of the Public, he has grossly abused the exorbitant Power which he illegally possessed himself of, particularly in the Management of the public Treasure. And this, we conceive, must plainly appear to every impartial Person who recollects, that, for these twenty Years past, this Kingdom has paid the largest Taxes that ever were imposed upon it in the Time of Peace; and yet that the public Debts remain much as they stood at the Time when this Gentleman first entered upon the Management of the Treasury; and that the Civil-List, also, the largest that was ever granted to the Crown, is, as we have the strongest Reasons to believe, considerably in Debt at this Time.

3dly, Because we conceive it was plainly proved in former Debates, that the Army, so greatly expensive to this Kingdom, and which only was granted by Parliament for the Defence of it, had been managed, both as to Rewards and Punishments, in such Manner as to make it of no military Use, but on the contrary, to render it subservient, as we apprehend, to the very worst of Purposes, the influencing Elections without Doors, and Votes within.

4thly, Because we are persuaded, that the vast Sums of Money, granted on different Heads for Sea-Service, cannot possibly have been faithfully applied; there having been as much Money granted by Parliament in the last six or seven Years, upon the several Heads applicable to the repairing and rebuilding our Ships, as would have been sufficient to rebuild the whole Fleet of *Britain* from the Keels of the Ships, and have put them thoroughly equipp'd to Sea: And yet it is most notoriously
true,

was if *Protest*, since the Treaties and Papers referred to being in Possession in the Protection of the House and the Privileges of many Facts alleged, were, in our Opinion, equal to a Cloud of Witnesses. For their Reason although we agree to the Matter contained in the Question, and acting in our judicial Capacity, would never depart from the Rules laid down in it, yet we cannot but with the Question had been laid aside, lest a wicked Minister should think himself secure in his Office if he cannot be brought personally to answer at the Bar of this House, and Witnesses *Pro tunc*, cannot be produced.

Signed by the Names as before, with the Addition of *Lawrence*.

Die Martis 16^a Februarii, 1740-1.

The Order of the Day being read for the second Reading of the Bill entitled *An Act for the better securing the Freedom of Parliament by Limiting the Number of Officers in the House of Commons*. The said Bill was read a second Time, and it being mov'd to commit the Bill the time was objected to. After Debate, the Question was put, Whether the said Bill shall be committed?

| | |
|----------------|--|
| Consent 24 | It was resolved in the Negative. |
| Not Consent 63 | <i>Northampton, Shaftsbury,</i> <i>Stanhope, Clifton.</i> |

Dissentient

1st, Because we conceive, that our Constitution itself points out this Bill, as one of its principal Securities; a due Poize and Independency of the three several Constituent Parts of the supreme legislative Power, being required by the Spirit of our Constitution, and absolutely necessary to its Existence. If any one of these becomes dependent on the other, the Constitution is dangerously altered: But if any two become dependent on the third, it is totally subverted, and the wisest Establishment that ever was formed of a free Government, shrinks and degenerates into a *Monarchical* and *Aristocratical*, or *Democratical* Faction. We therefore think we cannot be too careful in providing against whatever may, at any Time,

Time, affect this just Poize, and necessary Independency of the three Estates. And this Caution seems the more requisite, now, when, from the inevitable Variation of Things, Employments are become exceedingly numerous, and are yet further artfully split, divided, subdivided, and encreased in Value, in order to add both Extent and Weight to their Influence. Two hundred Employments are distributed in the present House of Commons; a dangerous Circumstance! And which, if it could have been foretold to our Ancestors even in the latter End of the last Century, the Prediction would have been rejected by them as Chimerical, or, if believed, lamented as fatal; and should the Number of Employments continue to encrease in the same Proportion, even we may live to see, for want of this Bill, a constant Majority of Placemen meeting under the Name of a Parliament, to establish Grievances instead of redressing them; to approve implicitly the Measures of a Court without Information; to support and screen the Ministers they ought to controul or punish, and to grant Money without Account, or it may be, without Bonds. In which Case, the remaining Forms of our Constitution would, by creating a fatal Delusion, become our greatest Grievance.

2dly, Tho' we don't absolutely assert, That Employments necessarily must, yet we cannot suppose, that they never will, influence the Votes and Conduct of the Gentlemen of the House of Commons; for such a Supposition would be equally conclusive against all the Acts of Parliament now in Force, limiting the Number of Officers of any Kind in that House; and, in a Case of such Importance, we think it would be the highest Imprudence, to trust the very Being of our Constitution to bare Possibilities; especially if an Experience (which we rather chuse to hint at than enlarge upon) should give us just Reason to suspect, that former Parliaments have felt the Effect of this baneful Influence, almost all Persons in Employments having voted invariably on the same Side of the Question, often against the known and signified Sense of their Constituents, and sometimes perhaps even contrary to their own private Declarations; and no
source.

known and they presume to deviate from the ministerial Track, that they were diverted of those Employments and thus of their intended Influence. But, admitting that the present House of Commons has kept itself not unworthily pure from such Pollution; yet we think it necessary, not to expose future Parliaments to such a Trial, nor the Constitution to the Uncertainty of the Decision.

It is, however, though it should be granted, that this Bill or Act have retained in some Degree the Liberty of the Electors, this Objection has no Weight upon the Common-sense Law being, in some Degree, a Restraint upon the natural Liberty of Man, but yet justly excusable, whenever the Good of the Whole (which should be the Design of every Law) is promoted thereby; and we apprehend, that this Restriction is of such a Nature, that those who will be angry under it who intended to abuse the Liberty. The Votes of the Electors of Great-Britain, if uncontrolled, would rarely concur in the Choice of Persons who were the created Creatures of a Minister, whose Dependence on a Court, and utterly unknown to those who elect them. But, in an Age, when Luxury breeds Corruption, and Corruption feeds Luxury, there is too much Reason to fear, that the People may be prevailed upon, in many Places by a pecuniary Influence, to give their Votes to those whom their uninfluenced Sentiments would reject with Indignation and Contempt. We think it necessary to lay this just and constitutional Restriction upon the Liberties of some, as the only Means to preserve the Liberties of all. By former Acts of Parliament, the Electors are already debarred from electing Persons in certain considerable Employments; and in the Act for averting the Consequence, by settling the Crown upon the present Royal Family, it was enacted, That no Person whatsoever in Employment should be capable of being chosen a Member of the House of Commons. Such was then the Spirit of Liberty, that even this total Exclusion could not be refused, nor could the Repeal of it afterwards be obtained, without enacting a Limitation of Placemen allowed to sit in the House of Commons, and a new Election of every Person who,

whilst

whilst he was a Member of that House, should accept of any Employment under the Crown; as likewise a Total (we wish we could say an Effectual) Exclusion of all Persons holding Employments erected since the passing of that Act; and there is no Reason to doubt, but that the same Spirit of Precaution would, upon the same constitutional Principles, have been carried much farther at that Time, could it then have been foreseen or imagined, that the Exclusion of some civil Officers would have been rendered useless, by the Introduction of so many military ones; and so many Persons in Employments, infinitely inferior, both in Rank and Profit, to those excluded by these several Acts, could ever have been by any Means elected into Parliament: And indeed it seems to us highly incongruous, that Inferior Clerks, and Attendants of Offices, who have not Seats in the Presence of their Masters, should be admitted to have Seats in the Legislature, and therefore become the Check and Controul of their Masters themselves.

4thly, Because we do not apprehend, that the Freedom of Parliament is now in the least secured by the Obligation laid upon all Members of the House of Commons, who accept any Employment under the Crown of being re-elected, Experience having shewn us, that this seeming Security is for the most Part become ineffectual, there being very few Instances of Persons failing in such Re-elections, tho' utter Strangers to their Electors; and it is natural to suppose, that, when the Means of corrupting are greater, the Success of the Candidate recommending himself, by Corruption only, will not be less.

5thly, Because we observe with Concern, that a Bill of this Nature has been already thrice rejected by this very House of Commons, and not been allowed to be committed, so as to have it known how far it was proposed to extend, which in our Opinions, implied a firm Resolution not to admit of any further Exclusion of Employments whatsoever: Whereas, in this last Session of this Parliament, this Bill was sent up to us, after having passed thro' all the Forms of the other House without the least Opposition. This we conceive can only proceed either from their Conviction at last of the Necessity of

of such a Bill, of which they are surely the properest Judges, or in Compliance with the almost universal Instructions of their Constituents, whose Voice we think ought to have some Weight even here; or lastly, to delude their Constituents themselves, by tacitly consenting to what they they were either told, or hoped, this House will refuse. And in this Case we apprehend, That a Confidence so injurious and dishonourable, ought to have been disappointed from a just Sense of the Contempt thereby shewn of the Credit, Weight, and Dignity of this House.

6tly, Because we think it particularly seasonable, so near the End of this Parliament, to provide for the Freedom and Independency of the next: And as we consider this Opportunity as the only one we are likely to have, for some Years at least, to do it, it is with the greater Concern that we see this Bill laid aside, rather by a Division than a Debate, and by Numbers rather than Arguments. But however unsuccessful our Endeavours have been for the future Security of this Constitution; however unavailing our Desire of enquiring into past and present Transactions; however fruitless our Attempts to prevent future Mismanagements, by a Censure of the past, and the Removal of the Author of them: We have at least this Comfort of transmitting our Names to Posterity, as dissenting from those Measures of which the present Age sufficiently testifies its Dislike, and of which the next may too probably feel the fatal Consequences.

| | | |
|----------------------|----------------------|----------------------|
| <i>Abingdon,</i> | <i>Warrington,</i> | <i>Ward,</i> |
| <i>Bridgwater,</i> | <i>Bruce,</i> | <i>Mansel,</i> |
| <i>Haverfbam,</i> | <i>R. Litch. and</i> | <i>Cobham,</i> |
| <i>Macclesfield,</i> | <i>Coventry,</i> | <i>Chesterfield,</i> |
| <i>Greenwich,</i> | <i>Carlisle,</i> | <i>Masbam,</i> |
| <i>Hereford,</i> | <i>Talbot,</i> | <i>Hallifax,</i> |
| <i>Aylesford,</i> | <i>Gower,</i> | <i>Denbigh.</i> |

I dissent for all the above Reasons, except the last.

Foley.

Die Martis 9^o Martii, 1740-41.

Hodie 3^a vice lecta est Billa, An Act for punishing Mutiny and Desertion, and for the better Payment of
the

the Army and their Quarters, Then the Question was put, whether this Bill shall pass? It was resolved in the Affirmative.

Dissentient

Because it does not appear to us, that the Forces which are now kept up within this Realm, are to be employed to annoy our Enemies abroad; and we are satisfied, the Affections of the People to his Majesty and the Protestant Succession are such, that there can be no Occasion for them to keep this Nation in Awe.

Abingdon, Litchfield, Warrington,
Aylesford, Carlisle.

Die Martis 22^o Decembris 1741.

A Motion being made, that an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions, that there be laid before this House, Copies of all Memorials, Representations, Declarations and Letters, which have been sent either to his Majesty or his Ministers, by the Queen of Hungary or her Ministers, or by his Majesty or his Ministers, to the Queen of Hungary or her Ministers, with the respective Answers to such Memorials, Representations, Declarations and Letters: And of all Letters wrote by either of his Majesty's Principal Secretaries of State, or any other of his Majesty's Ministers, to his Majesty's Minister residing at the Court of the Queen of Hungary, or by the said Minister to either of his Majesty's Principal Secretaries of State, or any other of his Majesty's Ministers, relating to the State of the War in the Empire, and the Supports and Interests of the House of Austria, since the Death of the late Emperor.' The same was objected to: And a Question being started thereupon, it was propos'd after the Word [*Declaration*] in in the former Part of the Question, to leave out these Words [*and Letters*] which being objected to: After Debate, the Question was put, whether those Words should stand Part of the Question? It was resolved in the Negative.

And it being propos'd to insert, after the Word [*Ministers*] mentioned in the 4th place [“ and of all Letters which have been sent to his Majesty's Minister's “ by

“ by the Ministers of the Queen of *Hungary*.”] The same was objected to.

Then it was proposed to leave out these Words [“ and
“ of all Letters wrote by either of his Majesty’s Prin-
“ cipal Secretaries of State, or any other of his Majesty’s
“ Ministers, to his Majesty’s Minister residing at the
“ Court of the Queen of *Hungary*, or by the said Mi-
“ nister to either of his Majesty’s Principal Secretaries
“ of State, or any other of his Majesty’s Ministers.”]
Which being objected to : The Question was put, whether those Words should stand Part of the Question ? It was resolved in the Negative. Content 32, Not Content 59.

Dissentient

Because the leaving out those Words in the Motion invalidates the Address to the greatest Degree, by denying the necessary Lights to see into Affairs of the utmost Concern to the Nation, and Transactions most probably in Agitation between *Great Britain* and the Queen of *Hungary*, inasmuch as there is neither Matter nor Means sufficient to give his Majesty our best Advice upon, although so graciously asked from the Throne at this critical Conjunction. Besides which, it is apparently putting such a Check and Restraint upon the Privilege of the House of Peers in wording Addresses to the King, as may prove of the utmost Prejudice and Loss to both, which the Nation in general would in Consequence be Sufferers by, should this be made Use of by ministerial Artifice or Power, at any Time to come, as a Precedent to defeat or annul Addresses of this Kind, whereon the Freedom and Safety of his Majesty’s Person, and the Protestant Succession and Government so eminently depend.

Haverſham.

Then a Motion was made for the like Papers relating the *French* King, which was carried in the Negative by 60 against 30. To which his Lordship likewise dissented for the same Reasons.

Die Martis 28° Januarii, 1741.

The Order of the Day being read for resuming the adjourned Debate, which arose Yesterday upon a Motion

on made in Relation to the Officers who are absent from *Minorca*.

Contents 69 And the Proposition being again made, and Not Cont. 35 the Question being put thereupon.

It was resolv'd in the Negative.

Then a Motion was made, that it appearing to this House that the Governor and Lieutenant-Governor of the Island of *Minorca*, and the Lieutenant-Governor of Fort St. *Philip*, and several other Officers upon the Establishment there, are now absent from the said Island, to the manifest Prejudice of the Publick-Service; resolved that an humble Address be presented to his Majesty, to give Directions, that the Officers upon the Establishment who are absent, as aforesaid, do forthwith repair to their respective Posts, and that his Majesty, out of his Royal Care of so important a Place, will be pleased to give the strictest Orders, that for the future to prevent any such Prejudice to the Publick Service, such a Number of the said Principal and other Officers as shall be sufficient to perform the Services belonging to the said Establishment, be constantly resident on the Place: The same was agreed to; and order'd to be presented to his Majesty by the Lords with white Staves.

A Negative being put upon the first Motion, the following Protest was enter'd.

Dissentient

1st, Because we conceive, That as the Fact stated in the former Part of the Question, appear'd plainly from the Paper laid before this House by the proper Officer, and neither was nor could be controverted by any one Lord, the Censure contain'd in the latter Part of the Question was not only just, but as gentle as so evident a Neglect of so important a Place, at so critical a Time, could possibly allow. The Principal, if not the only Argument made use of by those Lords who opposed the Motion was, That the Censure was general, and pointed at no particular Persons, which we rather apprehend to be a Proof of the Justice and Moderation of that Censure, as it could then only light upon the Guilty whoever they were; and we are inclined to believe, that had the Censure been applied to any particular Persons, the contrary Argument would have been urged, and the Inju-

Injustice of a particular Censure, without Proofs. Some high, tho' positive, at the same Time, the necessity of getting at those Proofs might have been render'd difficult: That out of nineteen Officers paid for the Establishment of *Minorca*, fourteen were able, among whom were the Governor, the Deputy Governor, and the Governor of Fort *St Philip*, was a fact disputed by none, tho' the slightest Censure of it was oppos'd by the Majority of the House. We therefore hope, that Posterity, to whom we thus appeal, will not only approve of our Conduct in this Motion, but will likewise, from the ill Success of it, find Reasons to excuse our not attempting many others of the like Nature.

2^{dly}, Because, when we consider the tender Apprehensions of the Administration for the Island of *Minorca*, in the Year 1742, when, upon Information received, that a few Troops were marching to the Coasts of *Catalonia*, and a few *Tartars* assembled in the Port of *Barcelona*, Orders (possibly obscure from that Precipitation which the Emergency requir'd) were sent to our Admirals in the *Mediterranean*, to provide immediately for the Defence of that Island, even by going there with their whole Force, if necessary; by the Execution or Mistake of which Orders, the *Spanish* Squadron was suffer'd to sail from *Cadix* to the *West-Indies*, to the imminent Danger of our Fleets and Possessions there; We cannot well account for that profound Security in which the Administration seem'd to be the last Year, with Regard to that valuable Possession, when an Embarkation of fourteen or fifteen thousand Men, and above two hundred Transport-ships was publicly preparing at *Barcelona*, and consequently within eight and forty Hours sail of *Minorca*, which Embarkation soon after went undisturb'd to *Italy*: But we fear this inconsistent Conduct may give too much Credit to Insinuations lately scatter'd in Publick, that the *British* Ministers were as secure that *Minorca* would not be attack'd by the *Spaniards*, as the *Spanish* Ministers were that their Embarkation would sail to *Italy* undisturb'd by our Squadrons in the *Mediterranean*.

3^{dly}, Because it appears, That about the same Time that Major General *Axfrutber* left that Island, by Leave
from

From the Secretary at War, which was on the 15th of *February* last, Admiral *Haddock* informs the Secretary of State, in a Letter of the 10th of the same Month, that by the latest Letters from Mr. Consul *Birtles*, he mentions, “ That a *Spanish* Embarkation is actually intended, “ and tho’ the first Design was on a sudden dropp’d, the “ last Intelligence declares the same to be renew’d a- “ gain;” which Information, we conceive, was sufficient to have excited greater Apprehensions for the Danger of that Island, than seem to have been entertained, since no one Step appears to have been taken thereupon for its Defence, or any Leave of Absence recalled; but the whole Government was suffered to devolve to a Lieutenant Colonel of one of the Regiments there.

4thly, Because it appear’d by the Examination of Major General *Anstruther* at the Bar, that when he left *Minorca* about the 15th of *February* last, above 700 Men were wanting to complete the Regiments there, and near the same Proportion of Officers absent: That the private Soldiers were so uneasy at having been there so long, that many destroyed themselves from Despair, and many maimed themselves to get discharged. That should the Island be attacked, the Inhabitants would, in his Opinion, certainly join the *Spaniards*: That in his Opinion too, that Island was always in Danger when our Enemies were superior in the *Mediterranean*, which has been for some Time, and is still the Case. All which Circumstances concur to prove the Danger, the Neglect, and the Justice of censuring such a Neglect at such a Time.

5thly, Because it was said in the Debate by those whose high Stations best enable them to know, “ That a “ general Relaxation of Government, and Abuses of “ this Nature, were the Vices of the present Age.” A melancholy Truth! which we conceive is so far from being an Argument for Impunity, that it evinces the Necessity, at least, of censuring such as we can attain to the Knowledge and Proofs of. And indeed we have but too much Reason to believe, that the several Abuses committed in the several Branches of the Government, unpunished at least, if not conniv’d at, have already pro-

duc'd Effects too sensibly felt by this Nation; which Abuses, from the Nature of Things, necessarily multiply themselves, and if not speedily check'd, must soon forge a Chain of reciprocal and criminal Dependency, too strong for even the Authority of this House to break, and too heavy for the Constitution to bear.

6thly, Because the Motion for an Address, offered in Lieu of this Question, in which the same Fact is stated in its full Extent, but without the least Censure annexed to it, is, in our Opinion, not only unprecedented, but inconsistent with the Honour and Dignity of this House, as it may seem calculated to screen the Guilt it avows; and as it may be thought to intimate future Impunity for publick Crimes, if balanced by private ministerial Merit. Artifice may elude Inquiries, or prevent Detection; Lenity may censure a Crime, yet spare the Criminal; but Mankind, we fear, may be at a Loss to account for what Motives so criminal a Neglect, fully stated, proved and admitted, could escape without Censure; or may ascribe it to such as would affect the Reputation, and consequently lessen the Authority of this House.

| | | |
|----------------------|----------------------|--------------------------|
| <i>Sandwich,</i> | <i>Dunk,</i> | <i>Halifax,</i> |
| <i>Greenwich,</i> | <i>Carlisle,</i> | <i>Shaftsbury,</i> |
| <i>Northampton,</i> | <i>Mansel,</i> | <i>Chesterfield,</i> |
| <i>Leigh,</i> | <i>Aylesbury,</i> | <i>Falmouth,</i> |
| <i>Craven,</i> | <i>Talbot,</i> | <i>Abingdon,</i> |
| <i>Cobham,</i> | <i>Ward,</i> | <i>Bridgewater,</i> |
| <i>St John,</i> | <i>Oxford and</i> | <i>Exeter,</i> |
| <i>Foley,</i> | <i>Mortimer,</i> | <i>Denbigh,</i> |
| <i>Litchfield,</i> | <i>Beaufort,</i> | <i>Ric. Lic. and Co.</i> |
| <i>Haversham,</i> | <i>Berkeley de</i> | <i>Suffolk,</i> |
| <i>Westmoreland,</i> | <i>Stratton,</i> | <i>Thanet,</i> |
| <i>Bathurst,</i> | <i>Ric. Lincoln,</i> | <i>Clinton,</i> |
| <i>Hereford,</i> | <i>Gower,</i> | <i>Aylesford,</i> |
| <i>Clifton,</i> | <i>Macclesfield,</i> | <i>Bedford.</i> |

Die Lunæ 20^o Martii 1742.

A Bill, which took its Rise from the Complaints of the Merchants, to the House of Commons, entitled, *A Bill for the better securing the Trade and Navigation of this Kingdom in Time of War*, was read. Which Bill was brought in that House on Account of the ob-

stinate

Senate Behaviour of *Nicholas Paxton* and others, before the secret Committee.

And Debate being had thereupon, the Question was then put, Whether the Bill should be committed ?

It was resolved in the Negative.

| | | | | | |
|----------|----|------|--------------|----|-------|
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| Proxies | 10 | | Proxies | 17 | |

Dissentient

Macclesfield.

1st, Because the rejecting of this Bill, founded, as we conceive, upon Reason and Justice, warranted by Precedents, authorised by Necessity, and called for by the general Voice of the Nation, may appear a manifest Obstruction to public Justice, in the present great and important Case, and a most certain Defeat of it for the future, in all Cases of the like Nature.

2^{dly}, Because it is an uncontroverted Maxim of the Law of *England*, That the Publick has a Right to every Man's Evidence, and yet, by the same Law, no Man is obliged to accuse himself; and as the Accomplices of Guilt are frequently the only Witnesses of it, we conceive, that both Prudence and Justice point out this Method of Impunity to some, as absolutely necessary towards discovering the Guilt of others; and thereby dissolving those Confederacies, which, formed by common Guilt, can only subsist whilst they are cemented by common Danger. From these undeniable Principles we apprehend this Bill ought to have passed, in order to preserve the Rights of the Public, and the Rights of Individuals.

3^{dly}, Because this Bill is justified by many Bills of a much stronger Nature, in Cases of much less Consequence to the Public, such as the Cases of Sir *Thomas Cooke*, the Masters in Chancery, Sir *Robert Sutton*, *Thompson*, and others, in some of which, the Persons indemnified, in order to give their Evidence, were, at the same Time, compelled, under severe Penalties, to give it. And as there is a Power not only of indemnifying, but rewarding, necessarily lodged in the Crown, in order to bring Criminals to Justice, by Evidence known to, and within the Reach of the Laws, so we apprehend, that in an Inquiry after Crimes, that may affect

affect the Being of the Whole, the People have a Right to the Exertion of that Power with which the Legislature is undoubtedly vested, to come at such Evidence as may make that Enquiry effectual to their future Security.

4^{thly}, Because the Legislature has exercised this Power in many Instances, relating to particular Branches of the Revenue, in order to prevent Frauds, the Persons concerned in such Frauds being not only indemnified, but rewarded also ; and for the private Utility of one Company, the Legislature, by the 9th of King George the First, after forbidding any Person to be concerned in promoting an *East-India* Company in the *Austrian Netherlands*, gives to our *East-India* Company a Power to prosecute, by Bill in Chancery, or Court of Exchequer, any Person whom they shall suspect, obliging such Person to make Discovery upon Oath, tho' such Discovery subjects him to a Forfeiture. As also for the better Discovery of Felonies the Legislature has thought fit by an Act, 5th of Queen *Anne*, to pardon any Person not only of the Felony discovered, but of all other Felonies he has ever been guilty of, upon his making a Discovery of two Persons who shall thereupon be convicted of any Burglary or Felony, and that Discoverer is also entitled to a Reward.

5^{thly}, Because the rejecting this Bill may prove a dangerous Precedent of fatal Consequence to this Constitution, since, whenever this Nation shall be visited by a wicked Minister, those who shall have served him in defrauding, and oppressing the Publick, and in corrupting Individuals, will be furnished with an Excuse for refusing their Evidence, their Danger will produce his Security, and he may enjoy with Safety the Plunder of his Country ; nay, we even apprehend, that the rejecting of this Bill may be misunderstood by those who can make any Discovery, as if this House designed to discourage any Evidence whatsoever, that could affect the Person whose Conduct the Secret Committee was appointed, by the House of Commons, to inquire into. A Minister may be removed from his Place, and not from his Power ; he may be removed from both, and not from the Favour of his Prince ; nay, he may be de-
prived

prived of all three, and yet his Successor may think his Interest and future Safety, and his Prince may imagine his Authority, concern'd in protecting him from either Punishment or Enquiry. In any of which Cases all written Evidence, all Office-Proofs, will be secreted or refused ; and if verbal Evidence be render'd impracticable too (which the rejecting of this Bill will furnish a Precedent for) we conceive we might as well have pass'd an Act of Indemnity to all future Ministers.

6thly, Because we can by no Means agree to the Argument principally urged against this Bill, that there were not Proofs of Guilt against this Person sufficient to justify the passing it ; whereas, in our humble Opinions, the Voice of the Nation, the Sense of the other House, and the lamentable Situation of this Kingdom, both at Home and Abroad, create Suspicions which not only justify, but even call aloud for Inquiry ; which Inquiry must necessarily prove ineffectual, unless the proper Methods are taken to support it, of which we apprehend this Bill to be one, and a Proceeding so just, that no innocent Man would desire to avoid it, and no guilty one ought to escape it : Moreover the Reasons assigned by the Persons whose Behaviour gave Rise to this Bill, for refusing their Evidence, is a sufficient Implication that it would affect the Earl of Orford, since they admit it would affect themselves.

7thly, Because we conceive that the rejecting this Bill may create great Disaffection in the Nation, to the Diminution of the Credit, and consequently of the Authority of this House, when the People find themselves disappointed in their just Expectations of having a strict Inquiry made into the Conduct of the Earl of Orford, which they have so long called for in vain, and hoped they had at last obtained. Groaning under the undiminished Load of National Debts and Taxes, notwithstanding a long Peace ; trembling under the Terrors of multiplyg in Penal Laws ; deploring their sacrificed Honour, and their neglected Interests ; the Balance of Europe overturned Abroad, and the Constitution endanger'd at Home ; they call for Inquiry ; they seek for Justice ; they hope for Redress : The other House has taken the proper Steps to answer these Expectations ; the Inquiry begun.

begun there cou'd only have been rendered effectual in one material Point by this Bill; which being rejected by this House, from whence they expect Justice and Redress, we fear their blasted Hopes, which, for a Time, may seem sunk into a slavish Despondency, may at last break out into Disorders, more easy, possib'y, to foresee than to remedy.

| | | |
|----------------------|----------------------|-----------------------------|
| <i>Denbigh,</i> | <i>Cristerfield,</i> | <i>Oxford and Mortimer,</i> |
| <i>Batbarg,</i> | <i>Ward,</i> | <i>Thancet,</i> |
| <i>Foley,</i> | <i>Aylesford,</i> | <i>Westmoreland,</i> |
| <i>Abingdon,</i> | <i>Berkshire,</i> | <i>Gower,</i> |
| <i>Northampton,</i> | <i>Boyle,</i> | <i>Coventry,</i> |
| <i>Rockingham,</i> | <i>Greenwich,</i> | <i>R. Lincoln,</i> |
| <i>Dunk-Halifax,</i> | <i>Craven,</i> | <i>Falmouth,</i> |
| <i>Bedford,</i> | <i>Cobham,</i> | <i>Carlisle,</i> |
| <i>Ailebury,</i> | <i>Sandwich,</i> | <i>Litchfield,</i> |
| <i>Beaufort,</i> | <i>Shaftsbury,</i> | <i>Leigh.</i> |
| <i>St. John,</i> | <i>Haverham,</i> | |

Die Mercurii 1^o Februarii, 1742-3.

The Order of the Day being read, for taking into Consideration the several Estimates of the Expence of the Forces in the Pay of Great Britain.

And after long Debate being had thereupon.

Contents 90 It was resolv'd in the Negative.
Not Cont. 35 Upon which the following Protest was
enter'd,

Dissentient

Gower, C. P. S.

Cobham,

1st, Because we apprehend, That the assembling an Army in *Flanders* last Year, without the Concurrence of the States General, was a Measure not only unwarranted by any Advice or Consent of Parliament, but directly repugnant to the declared Sense of the House of Commons in their Resolution of the 23^d of *March* last; it not appearing to us, That any one Power, engaged by Treaty, or bound by Interest to support the Queen of *Hungary*, except *England* alone, had come in to give her any Assistance, or to co-operate with us in any Plan to which an Army in *Flanders* could be supposed to con-
cede; and therefore the Support then promised by that
House

House to his Majesty, upon an exprefs conditional Supposition of being joined by fuch other Powers, is fo far from authorifing a Measure entered upon in Circumftances totally different, that it plainly points out the Opinion of Parliament againft fuch and Undertaking.

2dly, Because the taking 16,000 *Hanoverians* into the Service of Great Britain, to act in Conjunction with the *Engliſh* Forces aſſembled in *Flanders*, without conſulting the Parliament upon an Affair of fuch an important and delicate Nature (altho' it was foreſeen and pointed out by the King to both Houſes of Parliament at the Cloſe of the laſt Seſſion, and is expreſſy referr'd to in his Majesty's Speech at the Opening of this) ſeems to us highly derogatory to the Rights, Honour and Dignity of the great Council of the Nation, and a very dangerous Precedent to future Times.

3dly, Because the reſtoring the Ballance of Power in Europe, by raiſing the Houſe of *Auſtria* to its former Condition of Influence, Dominion and Strength, is an Object quite unattainable by the Arms of *Great Britain* alone: And for the attaining of which, no other Power has joined, or is likely to join with us in any offensive Engagements, either againſt the Emperor, or againſt *France*.

4thly, Because ſuch Aſſiſtance to the Queen of *Hungary*, as the Situation of her Affairs, and that of *Europe*, as well as the particular Interelt and Policy of this Iſland require, would have been more properly given in Money, with much leſs Expence and Danger to us, with much more Effect and Advantage to our Ally. The 38,000 Men, now ſaid to be paid for her Service, coſts this Nation 1,400,000 l. one half of which Sum would have enabled her to maintain a greater Number of Men, capable of acting wherever her Affairs might require; ſo that above 702,000 l. ſeems to be wantonly lavifh'd away upon this Occaſion, beſides the Lives of many of the Subjects of *Great Britain*.

5thly, Because we apprehend, that the Troops of the Elector of *Hanover* cannot be employed to act in *Germany* againſt the Head of the Empire, whoſe Title and Cauſe have been avowed by the whole Body, in granting him an Aid of fifty Roman Months for his Support in this
very

very War, without incurring the Risque of such Consequences upon any ill Success, as neither consists with the Safety of *Hanover*, nor with the Prudence of *England*; in which Apprehension we are strongly confirm'd by those Troops not having acted in Opposition to Marshall *Maillebois*, at a Juncture of Time when such an Assistance, given to the Queen of *Hungary*, might have been decisive; and for losing which Opportunity, no other natural or probable Reason appears.

6thly, Because the assembling an Army in *Flanders*, not then attacked by the *French*, nor, as it appears to us, in any Danger of being attacked, could be of no Use to the Power we designed to assist, nor give any Hindrance or Terror to *France*, with regard to the Designs she was then pursuing; but may, in its future Consequences, probably tend to draw the Arms of that Crown into those Parts, where they can act with the greatest Advantage, and engage this Nation as Principals in a Land War, the Expence and Danger of which are much more certain and evident, than the Support we shall find in it from other Powers, or the Means we shall have of carrying it on.

7thly, Because we observed, with the utmost Concern, that while *Great Britain* is exhausting itself, almost to Ruin, in pursuance of Schemes pretended to be founded on our Engagements to the Queen of *Hungary*, the Electorate of *Hanover*, tho' under the same Engagements, as well as under the same Prince, does not appear to contribute any thing as an Ally to her Assistance, but is paid by *Great Britain* for all the Forces it has now in the Field; and the Bargain made for those Forces, is much more disadvantageous to us, than what we concluded with that Electorate in the Year 1702. For, in the Convention, then signed, there is no Stipulation, either for Levy Money, or for Recruit Money, with both which we are charged in the present Demand, besides other extraordinary Articles; and we conceive, that the Article of the Levy Money, amounting alone to no less a Sum than 139,313 l. is a more particular Hardship upon us, because it is known to all the World, that the 16,000 Men were not levied at the Request, nor for the Service of *England*; but that the only Addition made to the usual

sual Establishment of the Electoral Forces in Time of Peace, was 6000 Men raised some Time before, upon the Death of the late Emperor, and for the Service of his Majesty's *German* Dominions; nor can we help observing, that when we contracted for *Hanover* Troops in *June* 1702, their Pay did not commence 'till the Beginning of that very Month in which some had already taken the Field, and the rest were actually upon their March; so that the Contract being only to the first of *January* following, *England* received the Benefit of the Service of those Troops during a whole Campaign, for the Pay of seven Months only; whereas by now taking those Troops into Pay, on the 31st of *August* 1742 (that is a Month before they began their March into *Flanders*) 'till the 26th of *December* 1743, we shall give them sixteen Months Pay for the Service of one Campaign only, if they should ever make a Campaign at all; so that *Hanover* not only receives the great and immediate Profit of this advantageous Bargain, but is also exonerated of above half the Number of Forces, which it used to maintain in Times of the most profound Tranquillity.

8thly, Because the making so unnecessary a Bargain, in so very unthrifty a Manner, when this Nation is groaning under so heavy a Load of Debts and Taxes, engag'd in a maritime War, at a mighty Expence, and with doubtful Success, maintaining a great national Army abroad; and at the same Time burthen'd at home with 23,000 Men (the Use of which we cannot discover) over and above 11,550 Marines, excites in our Minds the most alarming and melancholy Apprehensions of the Dissatisfaction and Jealousy that may arise in the Breasts of his Majesty's most faithful Subjects, if ever the servile Ambition of any Minister should attempt to gain, and to taint the Royal Ear, by a mistaken Adulation to imagin'd Partiality (which we are perswaded does not and cannot exist) in the Behalf of an Interest foreign to that of this Kingdom, were it ever to be suspected from any new and surprizing Appearances, that this Nation could be engaged in the most expensive, chimerical,

Y

Die Veneris 9° Decembris, 1743.

The House was moved, that an humble Address be presented to his Majesty, that his Majesty will most graciously be pleased to give Orders, that the sixteen Thousand *Hanoverians*, now in the Pay of *Great Britain*; be no longer continued in the Service of this Nation, after the 25th of this Instant *December*, thereby to put a Stop to the Jealousies and Heart-burnings among his Majesty's faithful Subjects at home, and his *British* Forces abroad.

Which being objected to, and a long Debate thereupon, the Question was put on the said Motion,

Content 36 And it was resolved in the Negative.
Not Content 71

Dissentient

1st, Because we conceive, that the Reasons assign'd in the Question, not only justify'd, but call'd for that Question, as a proper and necessary Exercise of the inherent Rights of this House, to advise the Crown; and we are convinc'd, that such Jealousies and Animosities have arisen, and will continue between the Troops of *Great Britain* and those of *Hanover*, that they can no longer act together, without evident Danger of the most pernicious and fatal Consequences.

2^{dly}, Because this our Conviction is founded upon the most publick and universal Notoriety, first transmitted from the Army abroad, then confirmed without Doors, by the unanimous and concurrent Accounts of all the Officers that are return'd from them; and now uncontradicted by any of those noble Lords, who had the Honour of serving the last Campaign, and who were appealed to for the Truth of this Proposition, while the Question was under our Consideration: A Silence! which, we apprehend, amounts to a Demonstration of the Truth of the Facts alledged.

3^{dly}, Because an Army divided against itself, in such a Manner as ours will certainly be, if the 16,000 *Hanoverians* are still to continue a Part of it, can give no

Strength to whatever Allies we have, no Terror to our Enemies, but must greatly obstruct, and probably defeat the Success of any Operation or Service in which it can be employ'd.

4thly, Because the Incompatibility of the *British* and *Hanoverian* Troops being known to all *Europe*, nothing can be a greater Inducement to the Queen of *Hungary* and the King of *Sardinia*, to quit our Alliance, and make a separate Peace for themselves, than if they should find, that, instead of a real and effectual Support, we are resolv'd to give the Name of an Army only; which, from the above mention'd Reasons, cannot co-operate in any Plan for their Service, or the Benefit of the common Cause.

5thly, Because we apprehend, that were it necessary, there would be no Difficulty in replacing the *Hanover* Troops with 16,000 others, at least as good, and as cheap, and not liable to the same, or any other Objections from other States, who would be very willing to treat with us about such a Bargain. Nay, we conceive, that this Number might, without any Danger, be, in a great Degree, supply'd by our National Troops now in *Great Britain*, and still leave more for the Defence of the Kingdom at home, than were kept here at any Time during the last War. And we can discover no good Reason, in our present burthen'd and exhausted Condition, for keeping a Number of National Troops useless at home, and paying at the same Time to considerable a Number of *useless Mercenaries* abroad.

6thly, Because the Willingness of the States General of the United Provinces, or any other Power in *Europe*, to enter into a closer Conjunction with us, at this critical Time, must chiefly depend upon the Idea they shall conceive of the State of this Nation at home, especially with regard to the greater or lesser Degree of Union and Harmony, which shall appear to subsist between his Majesty and his People in these his Royal Dominions. And it is known all over *Europe*, how much Discontent and Dissatisfaction the taking these

16,000 *Hanover* Troops into the Pay of *Great Britain*, together with the many unhappy and mortifying Circumstances that have attended that Measure, has universally raised in this Kingdom; and how much Reason there is to apprehend an Increase of that Dissatisfaction, if it should be a determined Measure of Government, to continue so odious a Burden upon the Nation, not only without any Advantage, but with the most visible Danger to the Service abroad.

7thly, Because we conceive it to be as much the Duty, as it is the Right, of the Peers of this Realm, who are hereditary Counsellors to the King, and Mediators between the Crown and the People, to interpose their timely Advice against such Measures, as calculated, in our Opinions, for the private Views of particular People only, have a manifest Tendency to alienate the Love of the Nation in general from this Royal Family, which we will always support with true *English* Hearts, and with such Counsels, as we do in our Consciences think the most conducive to their Glory, and to maintain and preserve the Honour and Dignity of that *British* Crown, to which *alone* we owe our Allegiance.

8thly, Because we know there are Partialities almost inseparable from human Nature, and blameless in themselves; when acting within their proper Bounds, which yet must have a most fatal Influence, if encouraged to mix themselves with the Affairs of this Nation, either in the Council, or in the Camp; and we do, from our Souls, scorn and abominate that most abject and criminal Adulation, which either gives Way to, or inflames such Partialities, in prejudice to the National Honour and Interest of our Country: We therefore thought it necessary, to enter these our Reasons against the further Continuance of these Mercenaries, which, for one Campaign only, have already cost this Nation near 70,000 *l.* and which appear to us, to have been, in many Instances, disobedient to *British* Orders, and utterly incompatible with *British* Troops: That, as our Votes have (we hope) proved us to the present Age, our

Names in the Books may transmit us to Posterity EX-
CUSELESS.

Northampton,
Tolter,
Chesham,
Bridgewater,
Cromer,
Simsbury,
Mingden,
Dunlop,
Sawley,

Sandwich,
Bedford,
Huntingdon,
Elbury & Elgin,
Haverham,
Thorn,
Moston,
Rochingham,
Horsford,

Litchfield,
Westmoreland,
Northampton,
Foley,
Gower,
Mansel,
Beaufort,

On a Motion, That it is the Opinion of this House,
That the continuing the Sixteen Thousand *Hanoveri-ans* in the Pay of *Great Britain* is prejudicial to the
true Interest of his Majesty, useless to the common
Cause, and dangerous to the Welfare and Tranquility
of this Nation.

Die Martis 31 Januarii, 1743.

The Order of the Day being read, for taking into
farther Consideration the Estimate of the Charge of the
Troops of *Hanover* in the Pay of *Great Britain*, from
the 25th of *December*, 1743, to the 25th of *December*,
1744.

It was moved to resolve, That it is the Opinion of
this House, that the continuing Sixteen Thousand *Han-
overians* in the Pay of *Great Britain* is prejudicial to
the true Interest of his Majesty, useless to the common
Cause, and dangerous to the Welfare and Tranquility
of this Nation.

And the same being objected to, after a long Debate
thereupon, The Question was put upon the said Mo-
tion.

Content 41
Not Content 86

And it was resolved in the Ne-
gative.

Dissentient

Dissentient

1st, Because we conceive; that the Demand made in the Estimates, for the Continuance of the Sixteen Thousand *Hanoverians* in the Pay of *Great Britain* for the ensuing Year, rendered the Interposition of this House against so fatal a Measure the more necessary, inasmuch as it seemed now to be the only Means left to prevent it.

2^{dly} Because we apprehend, that every national Purpose, pretended to be answered by these *Hanoverians*, may be more effectually served by an equal Number of Troops, supposing such a Number to be necessary, free from the same Objections, either of foreign Mercenaries, who will thereby be prevented from engaging with our Enemies, (of which the *Hanoverians* when unpaid by us, cannot, we assure ourselves, be suspected) or, at least, (which is evidently practicable, even at this Time) partly of Mercenaries, and partly out of the great and extraordinary Establishment of national Troops now in this Kingdom.

3^{dly}, Because it appears to us, that these *Hanoverians*, though in the Pay, can hardly be said to have been in the Service of this Nation; some refused to form in the first Line at the Battle of *Dettinghen*, and retired to the second; others refus'd to obey the Orders of the *British* General, and march in the Pursuit of the Enemy after the Battle; and the greatest Number of them, who, together with some of the *British* Guards, compos'd what was called the Rear-Guard, under the Command of a *Hanoverian* Lieutenant-General, took a different Rout in the March from the rest of the Army from *Aschaffenburg*; and such a one as not only rendered them wholly useless to the Army, when the *French* attack'd us in Front, but would have render'd them equally useless, if the *French* from *Aschaffenburg* (where we left the Passage open to them) had attack'd us in the Rear, in which it was pretended that these Troops were left, as in the Post of Honour. Nay, not contented to avoid being of Use, either in the Front or in the Rear, but determined to be of Use no where, they halted as soon as they came within
Sight

Sight and Reach of the Battle, though press'd by the *British* Officer, and invited by the Ardour of the *British* Soldiers to share the Glory, and complete, as they might have done, the Victory of the Day. These Facts (together with many others which we omit) asserted in the Debate in presence of many Lords of this House, who served in the last Campaign, denied by none of them, and confirm'd in general by a noble Duke of the highest Rank and Character, prove (as we conceive) these Troops to be useless, at least if Action be intended; and we will not represent, even to ourselves, what Reasons there can be for demanding them, if Action be not intended.

4thly, Because, if, as it was insinuated in the Debate, other Mercenaries could not be relied on, as belonging to Princes of the Empire, inclined to or engaged with our Enemies, these *Hanoverians* would, as we conceive in Consequence, be useless to the common Cause; since it would be in the Power of those very Princes, by only marching their Troops into proper Places, to recall these Mercenaries from us, and confine them to the Defence of their own Electorate, or *disarm them at least, by a second Neutrality*.

5thly, Because it has not been pretended, that the Administration has so much as endeavoured to obtain any other foreign Troops whatsoever, notwithstanding the long Notoriety of the universal and deeply-rooted Dissatisfaction of the Nation at the present Measure. A Neglect so unaccountable and surprising to us, that we fear the Nation will rather suspect that we are to have no other Troops, than believe no others are to be had.

6thly, Because we conceive, that the future Co-operation of our national Troops with these Mercenaries has been render'd impracticable, and even their Meeting dangerous; we think it, therefore, indispensably incumbent upon us, to remove the Object that occasioned the many Instances of Partiality, by which the *Hanoverians* were unhappily distinguish'd, and our brave Fellow-Subjects, the *British* Forces, undeserved-

ly



ly discourag'd. The constant Preference in Quarters, Forage, &c. we wish no Occasion had been given to remember; but we cannot pass over in Silence the *Hanoverian* Guards having for some Days done Duty upon his Majesty at *Aschaffenburg*, which we look upon as the highest Dishonour to his Majesty and this Nation, and are therefore astonish'd to observe an unusual, and, to every other Purpose, useless Proportion of *Hanover* Guards continued upon the Estimate.

7thly, Because we apprehend, that the Argument arg'd in Opposition to this Question; namely, that the withdrawing these Sixteen Thousand *obnoxious Mercenaries* would be weakening our Army in the next Campaign, alarm our Allies, and encourage our Enemies, is fully obviated by the Methods we have mentioned above, of replacing them; some, if not all of which, (notwithstanding the, to us, unaccountable Negligence of the Administration) are still undeniably practicable: Nor can we conceive, in any Case, that the removing the Causes of Discord and Division tends to the weakening of that Body from whence they are remov'd; and we are of Opinion, that our Allies would not (whatever our Enemies might) regret the Loss of these Troops the next Year, which, by Experience, they found so useless the last.

8thly, Because we apprehend, that the most fatal Consequences must ensue, should this Nation be once possess'd with an Opinion, that the Discouragements and Mortifications which our Fellow-Subjects of the Army have received abroad, were deriv'd from any Distrust or Dislike of the *British* Nation; we are far from entertaining any such Opinion, though some Degree of foreign Partiality may indeed have given Occasion to these Discouragements and Mortifications; tho' we can't help ascribing them likewise to some abject Flattery and criminal Misrepresentation, which this Partiality, blameless in itself, has unhappily given Occasion to; and by which, in its Turn, it has been fomented. But how groundless soever such an Opinion may be, it may still prevail, and the Appearances we lament,

lament, may produce the Effects we dread. The Motives to that Concern, that have been expressed in this House, and the loud Dissatisfaction that has been expressed every-where else, are in themselves of great Importance, and such as would deserve, even if they stood alone, the serious Consideration and seasonable Interposition of this House. But we confess, that they appear to us still more important, when we consider them relatively to Things of the same Nature, less apparent, indeed, but equally real, and more detrimental, perhaps, if not more dishonourable to this Nation. For, more dishonourable they may be thought, if a continued Principle of Conduct, whereby the Interests of one Country are carried on in Subordination to those of another, constitute the true and mortifying Definition of a Province. We will not here call to Memory any former Measures of this Kind, nor recapitulate all the Instances that might be given, wherein the Blood and Treasure of this Nation have been lavishly employed, when no one *British* Interest, and, as we conceive, some *foreign Interest alone* was concern'd. Some of these Instances were touch'd in the Debate, most of them are well known, and all of them are at this Time, by the Course of Events, manifested to publick View. The former were long hid and disguised under political Veils, the present could not by their Nature be so; they are such as strike every one equally, from the highest Officer to the common Soldier, and carry along with them not only their own Weight, but the Weight of all those that preceded them: They are such, therefore, in our Opinions, as must affect, in the most fatal Manner, both the Peace of his Majesty and his Royal Family, and the common Cause, in which we are now and may hereafter be engag'd. The present Royal Family was justly called to the Throne of *Great Britain*, in order to secure to us our civil and religious Rights, and to remove every false and foreign Biass from our Administration: The Happiness

ness and Security therefore, of both King and People, consist in the inseparable Union of all these Interests, with the Interest of the Crown, in a just Confidence, that these National Views were those of the present Royal Family. This Nation has done every Thing that could engage them to adhere to them; and has given to his late and present Majesty, far greater Sums than ever were given in similar Circumstances, to any of their Royal Predecessors. Whoever goes about to sever the Interests of the Crown, from any national Interests, is an Enemy to both; and every Measure that does so, tends to destroy both. It is to guard against such Attempts, that our Zeal for our King and Country exerts itself on this great Occasion, as our most earnest Desire is, that his Majesty's Throne should be established in the Hearts of his People; and as we are struck with Horror at every Object that can alienate his Affections from them, or theirs from him. How much these unfortunate Circumstances have already weaken'd the natural Influence of *Great Britain* in the common Cause of *Europe*, is but too apparent in Fact, and could not be otherwise in the Nature of Things. *Great Britain* is a powerful Kingdom, and whenever she has acted in her true Character, and aimed at that great and noble View alone, of maintaining a Ballance between the Powers of *Europe*, for the common Interest of all, the Effects have been answerable to the Cause, and her Influence in *Germany*, saved by her Arms, and supported by her Treasures in the last Wars, was, as it ought to be, and as it has been every where else, superior. But should it ever appear, that an inferior *German* Principality is really, and *Great Britain* only nominally, the Director and Actor, such a Change in the Cause must necessarily produce a deplorable Difference in the Effect; and *Hanover*, that can neither give Strength nor Consideration to *Great Britain*, may thus diminish the one, and take the other wholly away.

Westmore;

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|-------------------------------|------------------------|--------------------|
| <i>Westmoreland,</i> | <i>Ancaſter, G. C.</i> | <i>Shaſtsbury,</i> |
| <i>Sandwich,</i> | <i>Talbot,</i> | <i>Coventry,</i> |
| <i>Montjoy,</i> | <i>Tbanet,</i> | <i>Denbigh,</i> |
| <i>Dunk Hallifax,</i> | <i>Bridgwater,</i> | <i>Atisbury,</i> |
| <i>Gower,</i> | <i>Cheſterfield,</i> | <i>Bedford,</i> |
| <i>Boyle,</i> | <i>Litchfield,</i> | <i>Abington,</i> |
| <i>Oxford & Mortimer,</i> | <i>Hervey,</i> | <i>Beaufort.</i> |
| <i>Foley.</i> | <i>Strafford,</i> | |
| <i>Huntingdon,</i> | <i>Stamford,</i> | |

Die Jovis 27^o Aprilis, 1744.

The Order being read for the Houſe to be put into a Committee, upon the Bill, entitled, *An Act to make it High Treason, to hold Correſpondence with the Sons of the Pretender to his Maſteſty's Crown.*

Ordered that it be an Inſtruction to the ſaid Committee that they do receive a Clause for attainting any of the Pretender's Sons of High Treason, in Caſe they ſhall land, or attempt to land in *Great Britain*, or any other of the Dominions belonging to the Crown of *Great Britain*, or be found on board any Ship or Veſſel with Intent to land there.

Then the Houſe was moved, that the tenth Section of an Act, made in the 7th Year of the Reign of her late Maſteſty Queen *Anne*, intituled, *An Act for improving the Union of the two Kingdoms, relating to Forfeitures*, might be read.

The ſame ordered accordingly, and was to this Effect.

Proviſo, " That after the Decease of the Pretender, " and at the End of three Years after the Succeſſion to " the Crown on the Demise of the Queen ſhall take Effect, no Attainder for Treason ſhall extend to the diſ- " inheriting of any Heir, nor prejudice the Right or " Title of any Perſon, other than the Offender during " his natural Life only." *Stat. Abr.*

And it being alſo moved, That it be an Inſtruction to the ſaid Committee, that they do receive a Clause or Clauſes to ſuſpend and poſtpone the Operation and Effect

fect of the said tenth Section of the said Act 'till after the Death of the Sons of the Pretender.

The same was objected to, and after a long Debate thereupon, the Question was put, Whether such an Instruction shall be given to the Committee?

It was resolved in the Affirmative.

Dissentient

1st, Because this Addition to the Bill enacts the Continuation of a Punishment, which, though it may have prevailed at Times, in this and other Countries, we conceive it to be directly contrary to the first Principles of natural Justice, it being an uncontested Maxim, that the Innocent ought not to suffer for the Sake of the Guilty, where, by the Nature of the Thing, it is possible to prevent it.

2^{dly}, Because involving the Innocent in the Punishment of the Guilty, is wholly inconsistent with that Spirit of Justice and Lenity that distinguishes our Law; and which says, *It is better, that ten guilty Persons should escape, than that one innocent one should suffer.*

3^{dly}, Because we conceive, that the postponing the Operation of that Clause, in Act 7. of Queen Anne, 'till the Death of the Pretender's two Sons, is contrary to the plain Intention of that very Act, which appears throughout to have been an Act of Lenity and Mitigation; or to have been confined to the Life of the Pretender himself, or three Years after the Succession of the present Royal Family should take Place, the Duration of those cruel Penalties, of Forfeiture of the Estates, and Corruption of the Blood of innocent Persons, as the utmost Term it was proper or just to allow them; and we apprehend, that the Pretender's marrying and having Children, was at that Time too probable and obvious an Event, not to have suggested this Provision, had it been thought either just or necessary.

4^{thly}, Because we are far from being convinced, that the Terror of these Penalties will so often prevent Guilt, as the Execution of them will oppress Innocence; and we do not conceive, that those whom nei-

ther the innate Principle of Self-preservation, nor the Horror inseparable from Guilt can restrain, will be check'd by the tender Sentiments of parental Affection.

5thly, Because we conceive, that no present Danger whatever can be urg'd as an Argument for this Clause, whose Operation does not commence 'till after the Death of the Pretender, who is now but fifty-six Years old ; and we can see no good Reason for anticipating a future and remote Danger (supposing that such a Danger could ever exist) in order to enact at present the longer Continuation of so dreadful a penal Law.

6thly, Because we conceive the Continuation is, in effect, perpetuating this severe Law, since whatever Reasons can be urg'd for it during the Lives of the Pretender's two Sons, will be equally made use of for continuing it, as long as he or they shall have any Posterity subsisting.

7thly, Because we conceive, That as the Clause can have no immediate Operation, the enacting it at present may seem rather to be an Insinuation of present Disaffection, than any Security against it ; which Insinuation, we apprehend, would be highly unjust and unbecoming, after the unanimous Zeal and Loyalty, which the whole Nation has so lately given Proofs of, for his Majesty's Person and Government, and with which his Majesty has so lately from the Throne declared himself satisfied. These Reasons have induc'd us to transmit to Posterity our Dissent to a Clause, by which they may be so severely affected : We reflect with Concern upon the heavy Burthen of Debts and Taxes with which, we fear, we shall leave them loaded ; and we desire that they may know, that we endeavoured, at least, to secure their Innocence from the Rigour of those Laws, to which it may hereafter be exposed and sacrificed.

Denbigh,

| | | |
|--------------------|---|-------------|
| Denbigh, | Beaufort, | Bridgwater, |
| Oxford & Mortimer, | Ward, | Ailesbury, |
| Rockingham, | Hervey, | Talbot, |
| Macclesfield, | Litchfield, | Coventry, |
| Foley, | Warrington, | |
| Westmoreland, | Chesterfield, | |
| Bedford, | } for all the above Reasons except the 4th. | |
| Thanet, | | |

Die Veneris 27 Aprilis, 1744.

The Order being read for the House to be put into a Committee, upon the Bill, intituled, *An Act to make it High Treason to hold Correspondence with the Sons of the Pretender, to his Majesty's Crown.*

Ordered, that it be an Instruction to the said Committee, that they do receive a Clause for attainting any of the Pretender's Sons of High Treason, in case they shall land, or attempt to land in *Great Britain*, or any of the Dominions belonging to the Crown of *Great Britain*, or to be found on board any Ship or Vessel with Intent to land there.

Then the House was moved, that the Tenth Section of an Act, made in the 7th Year of the Reign of her late Majesty Queen *Anne*, intituled, *An Act for improving the Union of the two Kingdoms, relating to Forfeitures for High Treason*, might be read.

The same was read accordingly.

And it being also moved, That it be an Instruction to the said Committee, that they do receive a Clause or Clauses to suspend and postpone the Operation and Effect of the said Act 'till after the Death of the Sons of the Pretender.

The same was objected to, and after a long Debate thereupon.

The Question was put, Whether such an Instruction shall be given to the Committee?

It was resolved in the Affirmative.

Dissentient'

1. Because this Addition to the Bill enacts the Continuation of a Punishment, which, tho' it may have prevailed

vailed at Times, in this and other Countries, we conceive it to be directly contrary to the first Principles of natural Justice, it being an uncontested Maxim, that the Innocent ought not to suffer for the Sake of the Guilty, where, by the Name of the Thing, it is possible to prevent it.

2. Because involving the Innocent in the Punishment of the Guilty, is wholly inconsistent with that Spirit of Justice and Lenity that distinguishes our Law; and which says, *It is bitter, that ten guilty Persons should escape, than that one innocent one should suffer.*

3. Because we conceive, that the postponing the Operation of that Clause, in Act 7. of Queen Anne, 'till the Deaths of the Pretender's two Sons, is contrary to the plain Intention of that very Act, which appears throughout to have been an Act of Lenity and Mitigation; and to have been confined to the Life of the Pretender himself, or three Years after the Succession of the present Royal Family should take Place, the Duration of those cruel Penalties, of Forfeiture of the Estates, and Corruption of the Blood of innocent Persons, as the utmost Term it was proper or just to allow them; and we apprehend, That the Pretender's marrying and having Children, was at that Time too probable and obvious an Event, not to have suggested this Provision, had it been thought either just or necessary.

4. Because we are far from being convinced, that the Terror of these Penalties will so often prevent Guilt, as the Execution of them will oppress Innocence; and we do not conceive, that those whom neither the innate Principle of Self-preservation, nor the Horror inseparable from Guilt can restrain, will be checked by the tender Sentiments of parental Affection.

5. Because we conceive, that no present Danger whatever can be urged as an Argument for this Clause, whose Operation does not commence 'till after the Death of the Pretender, who is but now fifty-six Years old; and we can see no good Reason for anticipating a future and remote Danger (supposing that such a Danger could ever exist) in order to enact at present the longer Continuance of so dreadful a Penal Law.

6. Because we conceive, That this Continuation

is, in effect, perpetuating this severe Law, since whatever Reasons can be urged for it during the Lives of the Pretender's two Sons, will hold equally strong for continuing it as long as he or they shall have any Posterity subsisting.

7. Because we conceive, That as this Clause can have no immediate Operation, the enacting it at present may seem rather to be an Insinuation of present Disaffection, than any Security against it; which Insinuation we apprehend, would be highly unjust and unbecoming, after the unanimous Zeal and Loyalty, which the whole Nation has so lately given Proofs of for His Majesty's Person and Government, and with which his Majesty has so lately from the Throne declared himself satisfied. These Reasons have induced us to transmit to Posterity our Dissent to a Clause by which they may be so severely affected. We reflect with Concern upon the heavy Burthen of Debts and Taxes with which we fear we shall leave them loaded; and we desire that they may know, that we endeavoured, at least, to secure their Innocence from the Rigour of those Laws to which it may hereafter be exposed and sacrificed.

The Clause referred to.

Proviso, That after the Decease of the Pretender, and at the End of three Years after the Succession of the Crown by the Demise of the Queen shall take Effect, no Attainder for Treason shall disinherit any Heir, nor prejudice the Right of any Person, other than the Right of the Offender during his natural Life.

Abridg. of the Statutes.

Denbigh,
Oxford & Mortimer,
Rockingham,
Macclesfield,
Foley,
Westmoreland,
Beaufort,
Ward,

Litchfield,
Warrington,
Chesterfield,
Bridwater,
Milesbury,
Talbot,
Covestry,
Hercy,

Bedford, } for all the above Reasons except
Thames } the 4th.

A. 1745. Being the Year this Rebellion broke out, there was no Protest.

Dissentient

1. Because it appears to us, to be a Measure repugnant to the real and fundamental Interests of this Island to engage *Great Britain* as a Principal; and, in effect, as the only Principal in a Land War in the *Netherlands*; the Consequences of which are not only the Encrease of Taxes, and of Debts at home, but such immense Exportations of Specie abroad, as this Country cannot long. without Ruin, sustain.

2. Because we have experienced, and feel the Mischiefs arising to this Nation from the undue Influence of foreign Interests upon the Continent, whereby we have been unnecessarily embroiled in endless Jealousies and Contests, and engaged in impracticable Treaties and fruitless Subsidies, until after Intervals (hardly to be distinguish'd) of Peace without Oeconomy, and War without Effect, scarce any Trace remains of all the Efforts which this Nation has made upon the Continent, except that of a Debt of more than sixty Millions, exhausting the landed, distressing the trading Interest, creating new Powers and Influence dangerous to the Constitution, sapping the Credit, and preying upon the very Vitals of our Country.

3. Because the means for carrying on the War have appeared, and still appear to us, not only burthensome and grievous to the Nation, but insufficient to the national End (which in our Opinion ought to be the Re-establishment of Peace) and the Conduct of the War throughout the several Changes of Administration at home, seems to us to have been unaccountable from the unavailing Victory of *Dettingen*, to the Slaughter of our gallant Countrymen at *Fontenoy*.

4. Because we have still less Reason for concurring in this Measure, when we reflect upon the Conduct of our Allies, *Italy* having been well nigh lost, by the Inattention of the Court of *Vienna*, and the Barrier in the *Netherlands* having been unaccountably given up by a Conduct of the *Dutch*, for which we want a Name, as we want Reasons for the ineffectual and contemptuous Succour which they sent in our domestick Distress; and Part of which (even such as it was) they withdrew when the Danger appear'd greatest.

5. Because

5. Because after those Ministers, who first engaged us in this Measure, had declared the Concurrence of the *Dutch* essential to its Success; and after a new form'd Administration had so explicitly declar'd that Concurrence to be the necessary Condition of continuing that Measure, after not only the Conduct, but the very Words of the *Dutch* (as contained in the Memorial which has been laid before us) manifest their Disability, or their Disinclination to any cordial or effectual Concurrence: and after it is become notorious, that at this very Time they are treating for themselves at the Court of *France*, (if we may not rather infer from their Conduct, that they have already secur'd to themselves that Protection which their Ancestors disdain'd.) After all these Considerations, we hold it inexcusable to concur in charging our poor and exhausted Country with new and immense Expences, which not only common Sense, but Experience has pointed out to be in this Conjunction ineffectual. A Conjunction, in which even they, who advise his Majesty, did not flatter us with much Hope of Success.

6. Because the prodigious Expence which this Nation sustains, in support of this Measure, for the Hire of foreign Mercenaries, bears no Proportion between us and our Allies, either with Regard to their and our Interests to Stipulations observed in former Wars, or to our present Abilities, and must inevitably be (as we apprehend) a growing Expence, if the present Measures are pursued.

7. Because we have seen Part of the *British* Forces left useless abroad, at a Time when an additional military Strength was thought wanting for our domestick Defence; and that Want supply'd by foreign Mercenaries, which alarms us greatly, from the Reflections we cannot avoid making on the fatal Consequences which may be produced to this Country, if a Prerogative shall be ever established for bringing over into this Country foreign Mercenaries in *British* Pay, even during the sitting of Parliament, and without previously consulting that Parliament in a Matter so new, and so essential to the Honour, and to the Safety of the Nation. This alarms us the more, when we see the

Troops of *Hanover*, which had been affectedly secreted from the last Year's Estimates (tho' paid by this Nation then) now taken avowedly again into *British* Pay; for which second Variation we are not able to assign any national Motive. Our Alarm, therefore, must increase, since that Patriot-Zeal seems alarm'd no longer, which adopted, at least, the constitutional Jealousy, and which had given, at least, the Sanction of ministerial and parliamentary Acquiescence to the popular Discontent occasioned before by the Troops of *Hanover*, we, therefore, consider it as our bounden Duty to our Country, and to his Majesty's Royal Family, to warn Posterity to watch the Exertion of so dangerous a Prerogative, by which, upon the same Reasoning and Pretence, that a small Number of *Hanoverians* may be introduced into this Country, any greater Number may; and if that shall ever be the Case, the Rights and Liberties of this Country may be left at Mercy, or the *Protestant* Succession in his Majesty's Royal House be, at least, endangered by the Discontents which such a Measure might produce in the Hearts of the People.

8. Because we are discouraged still more from engaging in the further Burthens and Hazards of this consuming Measure, by the sad View of the Situation of Affairs at home. The Peace of the Kingdom is not yet intirely restored; the whole Expence already incurr'd by the Rebellion is not yet ascertain'd; the further Expence, which may be incurr'd, cannot be yet foreseen; the pressing Demands of the Navy-Debt weaken us most where we should endeavour to be strongest; and since to these we may add the Stagnation of Commerce, the Decay of our Inland Trade, the vast Increase of our military Establishment at home, made up of Hands wanted by the Manufacturer, and the Farmer; the Decrease of national Wealth, the Difficulty and enhanced Expence of raising Supplies; when adding Debts to Debts, we have parted, in Effect, with the very Power of Redemption, by mortgaging the Sinking Fund; the Fluctation and Delicacy of the Publick Credit; the Combination of all these Circumstances presents to our Minds a dark and dangerous Situation (such a one as we would not have thus pointed out, if it

it remained a Secret to any one within, or without this Island) a Situation, which, we apprehend, ought to fix our Attention, in the first Place, at home, and to warn us not to precipitate the too nearly impending Ruin of our Country. We should rather hope, for a proper Exertion of our own *British* Naval Strength, and by assisting the Powers more nearly concerned upon the Continent, with uniparring, but not with lavish Hands to withstand the ambitious Designs of *France*; that we might regain to this Nation from foreign Powers that Respect grounded upon our Prudence; and upon our Strength rightly apply'd; which alone ought to be made the Foundation, and can alone be the Support of Peace. At least that, we might find some Leisure from our Cares or others, to effect, if possible, our own domestick Welfare. instead of promoting (as we apprehend the present Measures tend to promote) National Calamity. Banruptcy, and military Government.

9. Becaus' our Duty to God, and to our Country, excite us in such a Situation more particularly to exert ourselves in Discharge of that Office, for which we stand accountable to both, being established by the Constitution Granted us of the People, and Counsellors to the Crown, constituted to watch, to check, to alert, to retrieve, to support, or to withstand wherever our Duty suggests; in which no Desire of Opposition, no personal Dislike, no little Motive of Resentment, or of Ambition; no selfish, or no partial Consideration has animated can relax, or shall disgrace our Conduct; affected deeply, but not depressed with the impending Ruin of our Country; we are determined not to be remiss in our Endeavours to retrieve its Welfare, which can only be effected by the Re-establishment of Peace, and of Order, by wise Oeconomy, and temperate Reformation; by regaining Confidence, and Authority to Government; and reviving in the Nation a truly *British* and moral Spirit. With all who will concur in such a Conduct we will unite with Affection. All other Connections and Views we disclaim and abhor.

*Beaufort,
Suffolk & Berkshire,*

*Mountjoy,
Craven,*

Northampton

Northampton,
Westmoreland,
Farrers,
Oxford & Mortimer,
Abingdon,
Aylesford,
Hereford,
Ealey,

Shaftesbury,
Litchfield,
Stanhope,
St. John de Bletsee,
Ward,
Maynard,
Boyle,
Talbot,

Die Jovis, 21 May 1747.

The Order of the Day being read for resuming the further Consideration of the Bill, entitled, *An Act for taking away and abolishing the heretable Jurisdictions in that Part of Great Britain called Scotland, and for making Satisfaction to the Proprietors thereof, and for restoring such Jurisdictions to the Crown, and for making more effectual Provision for the Administration of Justice, throughout that Part of the United Kingdom, by the King's Courts and Judges there, and for rendering the Union of the two Kingdoms more compleat.*

It was moved to commit the same.

Which being objected to,

And long Debates thereupon,

The Question was put, whether this Bill shall be committed,

Content. 79 }

Not Content. 16 }

It was resolved in the Affirmative.

Dissentient

1. Because changing the civil Constitution of *Scotland*, which the Act of Union reserved, and taking from the great Families in that part of the Kingdom, without their Consent, and against their Will, their Antient Rights, and Inheritances to be purchased by the Publick in this Time of their Distress, at a great but uncertain Expence, appears to us to be so extraordinary an Exertion of the Power of Parliament, as could only be justified by Necessity of State, or by some general, manifest, and urgent Utility to the Publick,

Because

2. Because we apprehend this Bill not to be justified by any Necessity of State, since it is manifestly and avowedly ineffectual, if calculated for adding any further Security to his Majesty's Government, because it is not so much as pretended that this Bill can have any Effect upon the Influence of Clans, which arises from no legal Authority, and since from the legal Jurisdictions subject to the Controul, and necessarily under the Direction of the King's Courts in *Scotland*, Danger to Government is no more likely to rise, than from the Influence which Rank and Property may acquire in any other Part of his Majesty's Dominions.

3. Because the Utility to the Subjects in that Part of the Kingdom from this Bill, is not apparent to us, since it is not imagined that a real, a great, and extensive Benefit should not be desired by the People of *Scotland*, when tendered to them, but on the contrary, should meet with strong Opposition, cold Acquiescence or silent Disgust; and since no single Instance of Grievance has been alledged; but on the contrary, it has been acknowledged, that no bad Use has been made of this Part of the ancient civil Constitution of *Scotland*, which it is intended by this Bill, to abolish at once, and for ever.

4. Because we do not conceive the Policy of making without Necessity, at this Time by a permanent Law, so considerable an Alteration in Government, nor do we apprehend the Wisdom of purchasing an ineffectual problematical Plan by a certain but unknown Expence. Neither do we understand how it is consistent with Justice to abolish the Rights of the Parties concern'd without previously adjusting their Compensations, nor can we reconcile with our Duty to the Publick, the delegating to the Court of Session in *Scotland*, the Power of fixing the Sums to be raised upon the People, a new Method of creating a new Load of Expence in no Degree ascertained or ever suggested to Parliament.

5. Because we apprehend by the Maxims of the Constitutions of this Country, Influence in the Hands of the Crown is more to be feared by the Abuse of ministerial Power, especially in the Election of Members of Parliament, than when in the Hands of the Nobility and Gentry, whose Rank and Property, are naturally the

Supports of a free Government, and we cannot conceive how the Liberty of *Scotland* will be better preserved by this Bill which (in our Opinions) manifestly tends to constitute at this Juncture a new Influence over all Counties of *North Britain*, by throwing a great and dangerous Power, into the Hands of Ministers, especially when it is avowed, that such an Alteration of Government may necessitate the Introduction of a military Force. A fatal Symptom. When it can even be mentioned in a *British* Parliament, that a Measure is avowedly ineffectual for the Safety of Government, and evidently unnecessary for publick Utility must probably be carried into Execution by military Force, which if avowed and not exerted must produce an Influence of the most pernicious Kind; if exerted establishes a military Government of the most dangerous Nature, beneath the Form of civil Government, a Measure tending in either Case, totally to subvert the Constitution of this County, and to which therefore we never consent.

*Oxford & Mortimer,
Westmoreland,
Ferrers,
Shaftesbury,
Denbigh,*

*Litchfield,
Stanhope,
Ward,
Talbot,
Beaufort.*

F I N I S.

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